

Multiple Agency Fiscal Note Summary

Bill Number: 5236 SB	Title: Hospital staffing standards
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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	568,000	0	0	1,140,000	0	0	1,144,000
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Department of Social and Health Services	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	568,000	0	0	1,140,000	0	0	1,144,000

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	1.8	0	0	568,000	3.7	0	0	1,140,000	3.7	0	0	1,144,000
Office of Administrative Hearings	Fiscal note not available											
Department of Labor and Industries	10.1	0	0	5,428,000	20.5	0	0	6,484,000	20.0	0	0	6,314,000
Department of Social and Health Services	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Department of Health	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Corrections	.0	0	0	0	.0	0	0	0	.0	0	0	0
University of Washington	32.5	11,899,955	11,899,955	11,899,955	44.0	16,118,288	16,118,288	16,118,288	44.0	16,118,288	16,118,288	16,118,288
University of Washington	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
Total \$	44.4	11,899,955	11,899,955	17,895,955	68.2	16,118,288	16,118,288	23,742,288	67.7	16,118,288	16,118,288	23,576,288

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Expenditures

Agency Name	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	Fiscal note not available								
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
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Breakout

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

Bill Number: 5236 SB	Title: Hospital staffing standards	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		568,000	568,000	1,140,000	1,144,000
Total \$		568,000	568,000	1,140,000	1,144,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	3.7	1.8	3.7	3.7
Account					
Legal Services Revolving Account-State 405-1	0	568,000	568,000	1,140,000	1,144,000
Total \$	0	568,000	568,000	1,140,000	1,144,000

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: 01/10/2023
Agency Preparation: Amy Flanigan	Phone: 509-456-3123	Date: 01/19/2023
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 01/19/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 01/20/2023

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 – 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 – Amends RCW 70.41.420 – Requires establishment of hospital staffing committee for hospitals by September 1, 2024. 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. Starting July 1, 2025, plans must be submitted to the Department of Labor and Industries (L&I). Committees shall develop process to examine data and review complaints. Committee must also file a charter with L&I.

Section 3 – New Section – Sets forth definitions for terms used in this legislation. Sets forth minimum staffing standards for hospitals. Establishes L&I as department to enforce compliance issues.

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

Section 5 – New Section – Definitions.

Section 6 – 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.

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

Section 8 – Amends RCW 49.28.130 – Amends certain definitions.

Section 9 – Amends RCW 49.28.140 – Changing time limits for on call time.

Section 10 – Amends RCW 49.28.150 – Requires L&I to investigate complaints of violations of RCW 49.28.140 as set forth in section 11-13 of this Act.

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

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

Section 15 – Repeals 2017 c 249 s 4.

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

Section 17 and 18 – Recodifications.

Section 19 – Effective January 1, 2024, except for Section 15.

Section 20 – Section 15 takes effect June 1, 2023.

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 agencies are the Department of Labor and Industries (L&I) and the University of Washington (UW). The Attorney General’s Office (AGO) will bill all clients for legal services rendered.

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

AGO AGENCY ASSUMPTIONS:

L&I will be billed for Seattle rates:

FY 2025 and FY 2026: \$568,000 for 2.1 FTE Assistant Attorney General (AAG) and 1.05 FTE Legal Assistant 3 (LA),
FY 2027: \$540,000 for 2.0 FTE AAG and 1.0 FTE LA in each FY thereafter.

UW will be billed for Seattle rates:

FY 2027: \$32,000 for 0.1 FTE AAG and 0.1 FTE 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:

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

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 (AAG) FTE, the AGO includes 0.5 FTE for a Legal Assistant 3 (LA) and 0.25 FTE for a Management Analyst 5 (MA). The MA is used as a representative classification.

Assumptions for the AGO Labor and Industries Division’s (LNI) Legal Services for the Department of Labor and Industries (L&I):

The AGO will bill L&I for legal services associated with implementation, investigations and enforcement and litigation based on the enactment of this bill.

L&I anticipates 684 additional complaints beginning January 1, 2024, when the changes to meal, rest breaks and overtime become effective. Historically, 30 percent of these types of investigations related to the health care industry result in final

order, we estimate 205 final orders. A very conservative estimate of the appeal rate is 20 percent, which results in 41 additional appeals.

Appeals of this complexity require approximately 1.0 AAG FTE per 20 cases. Because the delay between when investigations occur in these matters and when citations and appeals occur the AGO would need resources beginning in July 2024.

The AAGs will also need to provide complex legal advice for implementation, policy making, and rulemaking, the provisions become effective between June 1, 2024, and July 1, 2027. It is likely that L&I will receive a large number the first year which will involve client advice and litigation support.

Based on the ongoing work on these complex matters and appeals a total of 2.1 AAG FTE to address long-term client advice and litigation will be necessary beginning July 1, 2024, until July 1, 2027. Beginning July 1, 2027, 2 AAGs limited to the ongoing litigation.

LNI: Total Seattle workload impact:

FY 2025 and FY 2026: \$568,000 for 2.1 AAG FTE and 1.05 LA FTE.

FY 2027: \$540,000 for 2.0 AAG FTE and 1.0 LA FTE and in each FY thereafter.

Assumptions for the AGO University of Washington (UOW) Legal Services for the University of Washington (UW):

The AGO will bill UW for legal services associated with implementation, investigations and enforcement and litigation based on the enactment of this bill.

UOW anticipates additional work from the University’s hospitals once staffing minimums and related enforcement mechanisms are in effect. Anticipated additional related labor litigation as well.

UOW: Total Seattle workload impact:

FY 2027: \$32,000 for 0.1 AAG FTE and 0.1 LA FTE and in each FY thereafter.

The AGO Agriculture and Health Division has reviewed this bill and determined it is not expected to generate any costs or savings to the division’s workload in representing the Department of Commerce. Commerce would not be given any new authorities or responsibilities under this bill.

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	State	0	568,000	568,000	1,140,000	1,144,000
	Revolving Account						
Total \$			0	568,000	568,000	1,140,000	1,144,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		3.7	1.8	3.7	3.7
A-Salaries and Wages		380,000	380,000	763,000	766,000
B-Employee Benefits		121,000	121,000	243,000	244,000
E-Goods and Other Services		63,000	63,000	127,000	128,000
G-Travel		4,000	4,000	7,000	6,000
Total \$	0	568,000	568,000	1,140,000	1,144,000

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		2.1	1.1	2.1	2.1
Legal Assistant 3-Seattle	67,044		1.1	0.5	1.1	1.1
Management Analyst 5	91,524		0.5	0.3	0.5	0.5
Total FTEs			3.7	1.8	3.7	3.7

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Labor & Industries Division (LNI)		568,000	568,000	1,108,000	1,080,000
University of Washington Division (UOW)				32,000	64,000
Total \$		568,000	568,000	1,140,000	1,144,000

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: 5236 SB	Title: Hospital staffing standards	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	7.8	12.4	10.1	20.5	20.0
Account					
Accident Account-State 608-1	2,480,000	2,186,000	4,666,000	5,787,000	5,642,000
Medical Aid Account-State 609-1	438,000	324,000	762,000	697,000	672,000
Total \$	2,918,000	2,510,000	5,428,000	6,484,000	6,314,000

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: 01/10/2023
Agency Preparation: Shana J Snellgrove	Phone: 360-902-6408	Date: 02/03/2023
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 02/03/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 02/06/2023

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	2,480,000	2,186,000	4,666,000	5,787,000	5,642,000
609-1	Medical Aid Account	State	438,000	324,000	762,000	697,000	672,000
Total \$			2,918,000	2,510,000	5,428,000	6,484,000	6,314,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	7.8	12.4	10.1	20.5	20.0
A-Salaries and Wages	672,000	996,000	1,668,000	3,112,000	3,022,000
B-Employee Benefits	232,000	354,000	586,000	1,142,000	1,110,000
C-Professional Service Contracts	598,000	136,000	734,000		
E-Goods and Other Services	1,313,000	901,000	2,214,000	2,158,000	2,110,000
G-Travel	13,000	21,000	34,000	72,000	72,000
J-Capital Outlays	90,000	102,000	192,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	2,918,000	2,510,000	5,428,000	6,484,000	6,314,000

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	1.0	1.0	1.0	0.5
Fiscal Analyst 5	71,520	0.5	0.8	0.7	1.3	1.3
Industrial Relations Agent 2	66,420		0.6	0.3	2.2	2.2
Industrial Relations Agent 3	69,756	3.0	6.0	4.5	12.0	12.0
Industrial Relations Agent 4	75,120	0.8	1.0	0.9	1.0	1.0
IT Business Analyst - Journey	100,032	0.8	1.0	0.9	1.0	1.0
Occupational Nurse Consultant	130,248	1.0	1.0	1.0	1.0	1.0
WMS Band 2	104,887	0.8	1.0	0.9	1.0	1.0
Total FTEs		7.8	12.4	10.1	20.5	20.0

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

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/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). This bill updates RCWs related to the regulation of mandatory overtime for certain healthcare workers, requires that L&I conduct rulemaking to establish minimum nurse-to-patient staffing standards and a variance process for modification of those standards, expands meal and rest break laws for healthcare workers, and requires hospital staffing committees to create staffing plans which are subject to review, enforcement, and civil penalties for violation.

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 Section 2, RCW 70.41.420 and 70.41.425 (as recodified by this act), unless clearly stated otherwise:

1. “Department” means L&I.
2. “Director” means the director of L&I or the director’s authorized representative or designee.
3. “Hospital” is defined in RCW 70.41.020 and includes state hospitals defined in RCW 72.23.010.
4. “Hospital staffing committee” means a committee established by a hospital under RCW 70.41.020.
5. “Intensity” means level of patient need for nursing care, as determined by the nursing assessment.
6. “Nursing and patient care staff” means a person who is providing direct care or supportive services to patients but is not a physician licensed under chapter 18.71 or 18.57 RCW, a physician's assistant licensed under chapter 18.71A RCW, or an advanced registered nurse practitioner licensed under RCW 18.79.250 unless working as a direct care registered nurse.
7. "Patient care unit" means any unit or area of the hospital that provides patient care by registered nurses.
8. "Reasonable efforts" means that the employer exhausts and documents all of the following but is unable to obtain staffing coverage:

- (a) Seeks individuals to consent 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.
9. "Skill mix" has been updated to mean the experience of, and number and relative percentages of, nursing and patient care staff.
10. "Unforeseeable emergent circumstance" means:
- (a) Any unforeseen declared national, state, or municipal emergency; or
 - (b) When a hospital disaster plan is activated.

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

1. Requires all hospitals to establish a hospital staffing committee by September 1, 2024.
 - (a) A minimum of 50 percent of hospital staffing committees are to include non-supervisory/non-managerial nursing and patient care staff.
 - (b) Up to 50 percent of the members of the hospital staffing committee shall be determined by the hospital administration and shall include but not be limited to the chief financial officer, the chief nursing officers, and patient care unit directors or managers or their designees.
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 and shift-based hospital staffing plan and using a standard format or form created by L&I.
 - (b) Semiannual review of staffing plans.
 - (c) Review, assess, and respond to staffing variations or 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 or their designee must provide semiannual written feedback.
 - (c) Each hospital shall submit staffing plan to L&I annually, beginning July 1, 2025, and when updated.
7. Beginning July 1, 2025, 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 committees shall develop a process to respond to complaints. All complaints must be reviewed without discrimination.
 - (d) In the event of an unforeseeable emergent circumstance, the hospital incident command shall report within 30 days to the cochairs of the hospital staffing committee an assessment of the staffing needs arising from the unforeseeable emergent circumstance and the hospital's plan to address those identified staffing needs.
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 hospital staffing committee duties, or retaliating against individuals for reporting concerns to the committee or administration.
10. This section is not intended to create unreasonable burdens on critical access hospitals under 42 U.S.C. Sec. 1395i-4.
11. Staffing committee must file a charter with L&I, which provides a number of requirements.

Section 4 amends RCW 70.41.425.

1. L&I shall investigate complaints for violations of RCW 70.41.420.
 - (a) Complaints must include documentation showing failure to:
 - i. Form or establish a hospital staffing committee;
 - ii. Conduct a semiannual review of a nurse staffing plan;
 - iii. Submit a nurse staffing plan on an annual basis and any updates; or
 - iv. Follow the nursing personnel assignments in a patient care unit in violation of 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 and the process under (d) of this subsection has been followed, if applicable; 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. However, reasonable efforts cannot be used if the employer has chronic staff shortages that persist longer than three months or has frequently reoccurring staff shortages.
 - (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 will 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 5 (new):

1. Establishes definitions 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) "Director" means the director of L&I or the director's authorized representative or designee.
 - (e) "Hospital" has the same meaning as defined in RCW 70.41.020.
 - (f) "Hospital staffing committee" means the committee established by a hospital under RCW 70.41.420.
 - (g) "Patient care unit" means any unit or area of the hospital that provides patient care by registered nurses, including but not limited to a critical care unit, burn unit, labor and delivery room, post-anesthesia service area, emergency department, operating room, pediatric unit, step-down/intermediate care unit, specialty care unit, telemetry unit, general medical care unit, subacute care unit, and transitional inpatient care unit.
 - (h) "Unforeseeable emergent circumstances" means:
 - i. Any unforeseen declared national, state, or municipal emergency; or
 - ii. When a health care facility disaster plan is activated.
2. Requires L&I to adopt and implement rules establishing minimum standards for direct care registered nurses and direct care nursing assistants-certified in patient care units no later than January 1, 2027.
3. Establishes staffing standard requirements.

- (a) Hospitals shall comply with minimum staffing standards in accordance with this section no later than July 1, 2027.
 - (b) Requires L&I to enforce this section under sections 11 through 13 of this act.
- 4. These staffing standards shall constitute the minimum number of direct care registered nurses and direct care nursing assistants-certified that shall be allocated.
- 5. The staffing standards established in this section do not decrease any nurse-to-patient staffing levels:
 - (a) In effect pursuant to a collective bargaining agreement; or
 - (b) Established under a hospital's staffing plan in effect as of January 1, 2022, except with a 50-percent-plus-one vote taken after January 1, 2027, by a hospital staffing committee in full compliance with the standards under RCW 70.41.420.
- 6. A direct care registered nurse or direct care nursing assistant-certified may not be assigned by hospitals to a nursing unit or clinical area unless that nurse has first received orientation in that clinical area sufficient to provide competent care to patients in that area and has demonstrated current competence in providing care in that area. Hospital staffing committees shall adopt written policies and procedures under this section no later than July 1, 2027.
- 7. L&I must adopt and implement rules to define variance criteria.

Section 6 (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 hospital 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, hospital staffing committee charters, and violations of this section on its website.

Section 7 amends RCW 49.12.480 by expanding the definition of employee and employer in meal and rest break requirements. Updated requirement are:

1. An employer shall provide employees with meal and rest periods as required by law, subject to the following:
 - (a) Rest periods must be scheduled at any point during each work period during which the employee is required to receive a rest period.
 - (b) Employers must provide employees with uninterrupted meal and rest breaks. This subsection (1)(b) does not apply in the case of an unforeseeable emergent circumstance or an unforeseeable 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 periods 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 8 amends RCW 49.28.130 by updating definitions of employee, employer, health care facility, reasonable efforts, and unforeseeable emergent circumstance.

Section 9 amends RCW 49.28.140 by updating prescheduled on-call time and chronic short staffing vacancies.

Section 10 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 as provided under sections 11 through 13 of this act.

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

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

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

Section 16 (new) states Sections 5, 6, and 11 through 14 of this act constitute a new chapter in Title 49 RCW.

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

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

Section 19 (new) makes this act effective January 1, 2024, except for Section 15.

Section 20 (new) makes Section 15 of this act effective June 1, 2023.

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.

L&I has determined that the intent in section 2 by changing “Nursing and ancillary health care personnel” to “Nursing and patient care staff” in the current bill was to increase the number of employees impacted, the definition of both is the same and therefore is not changing the complaints assumption. The change to “patient care staff” implies that those providing “supportive services to patients” extends beyond those licensed or certified to provide health care services. This could include, but is not limited to, patient advocates, health coaches, community health workers, clergy, and patient service assistants (those bringing meals & drinks to patients) or staff members who help transport people within the hospital.

- Section 6 allows L&I to issue penalties for hospitals that fail to submit staffing plans and staffing committee charters by the appropriate deadline. L&I does not know how many hospitals would fail to submit hospital staffing plans and 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.
 - 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 11 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.
 - 500 safe staffing complaints are anticipated per year (see expenditure section).
 - If the historical 30 percent of complaints results in violations, 150 complaints would result in violations. (500 x 0.30 = 150)

- 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.
- 150 violations x \$1,000 per violation = \$150,000
- Section 11 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.
 - 170 additional meal and rest break complaints are anticipated per year (see expenditure section).
 - If the historical 30 percent of complaints results in violations, about 51 complaints would result in violations. ($170 \times 0.30 = \text{about } 51$)
 - 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.
 - 51 violations x \$1,000 per violation = \$51,000
- Section 11 allows L&I to issue penalties for mandatory overtime 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.
 - 15 additional mandatory overtime complaints are anticipated per year (see expenditure section).
 - If the historical 30 percent of complaints results in violations, about 4 complaints would result in violations. ($15 \times 0.30 = \text{about } 4$)
 - 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.
 - 4 violations x \$1,000 per violation = \$4,000

II. C – Expenditures

L&I has determined that the intent in section 2 by changing “Nursing and ancillary health care personnel” to “Nursing and patient care staff” in the current bill was to increase the number of employees impacted, the definition of both is the same and therefore is not changing the complaints assumption. The change to “patient care staff” implies that those providing “supportive services to patients” extends beyond those licensed or certified to provide health care services. This could include, but is not limited to, patient advocates, health coaches, community health workers, clergy, and patient service assistants (those bringing meals & drinks to patients) or staff members who help transport people within the hospital.

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 – Complaints and Citations

L&I is expecting an increase in complaints and citations as a result of these bills. Included is a matrix to show what the impacts will be depending on the number of complaints and citations.

	High	Medium	Low
Complaints - Staffing	750	500	250
Complaints - Meal/Rest Breaks	255	170	85
Complaints - Mandatory OT	23	15	8
Total Complaints	1,028	685	343
Citations of Complaints	30.0%	30.0%	30.0%
Total Citations	308	206	103
IRA 3 - Complaints Per	60	60	60
IRA 3 - Citations Per	192	192	192
IRA 3 - Complaints	17.0	11.0	6.0
IRA 3 - Citations	2.0	1.0	0.5
IRA 4	2.0	1.0	-
WMS 2	1.0	1.0	-

For fiscal note purposes, L&I is assuming the medium level of impact for the fiscal impact. The IT section will be needed in all scenarios.

- 11.0 FTEs, Industrial Relations Agent (IRA) 3, permanent. Duties include conducting investigations into reports of improper medical staffing violations, additional meal and rest break violations, additional overtime violations, and staffing committee violations. L&I does assume that the 11 FTE will phase in based on the effective dates of the bill. 3.0 FTE IRA 3 will be needed October 1, 2023 to address overtime complaints and meal & rest break provisions and the remaining 8.0 FTE will be needed April 1, 2025, which is related to complaints in regards to the staffing plans.
 - L&I anticipates 500 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.
 - The report also specifically affects ancillary healthcare workers. Due to this bill’s broadening of protections for “patient care staff”, the increased pool of affected workers could include clinical assistants, patient service assistants, porters, ward clerks, and volunteers. Because of the broadening of affected workers to include not just licensed healthcare professionals, L&I is assuming twice as many complaints as previously estimated in 2022.

- L&I anticipates an additional 169 complaints per year related to meal and rest break violations.
 - In fiscal year 2022, L&I received 1,458 meal and rest break complaints across all sectors.
 - 169 of these complaints were directly related to healthcare workers.
 - It is assumed this number will increase given the expansion and coverage of healthcare workers across all healthcare sectors.
- L&I anticipates an additional 15 complaints per year related to overtime violations.
 - In fiscal year 2022, L&I receive 23 healthcare facility employee overtime complaints.
 - Per Employment Security Data, only 104,399 employees are covered under current overtime law protections. This bill would expand that to 172,687. This is about a 65 percent increase. ($172,687 / 104,399 = 1.65$)
 - 15 additional complaints are expected each year based on the assumed 65 percent increase. ($23 \text{ healthcare facility employee overtime complaints} \times 0.65 = 15 \text{ additional complaints}$)
- Workload indicators show a Protected Leave Specialist can investigate 60 complaints on an annual basis. This bill would add approximately 684 complaints (500 staffing, 169 meal and rest break, and 15 overtime) on an annual basis.
- 60 complaint investigations per year by an IRA3 would require an additional 11 FTEs. ($684 \text{ complaints} / 60 \text{ investigations per IRA3 per year} = \text{about } 11 \text{ FTEs}$)
- Meal and rest break provisions and overtime rules take effect January 1, 2024. Therefore, L&I would need to hire and train the IRA3s to be ready to begin enforcement and investigations. This necessitates an October 1, 2023, start date. These staff will also be trained to begin investigations and enforcement of staffing committee violations beginning September 1, 2024.
- L&I does assume that the 11 FTE will phase in based on the effective dates of the bill. 3.0 FTE IRA 3 will be needed October 1, 2023 to address overtime complaints and meal & rest break provisions and the remaining 8.0 FTE will be needed April 1, 2025, which is related to complaints related to the staffing plans.

- 1.0 FTE, Industrial Relations Agent (IRA) 3, permanent, starting October 1, 2023. Duties include issuing citations and notices of assessment pursuant to the provisions in this chapter. This FTE will also be responsible for reviewing information in the Complaint Activity Tracking System; entering citation data for transfer into Accounts Receivable & Collections system; receiving, distributing and processing payments under this chapter; and preparing and transferring case appeals to the Office of Attorney General.
 - L&I anticipates an additional 684 complaints.
 - 205 citations are expected annually. It is assumed 30 percent of 684 complaints will result in a citation. This is based on healthcare overtime cases resulting in a citation 30 percent of the time in fiscal year 2022. (684 complaints x 0.30 = 205 citations)
 - Workload indicators show an IRA3 can issue about 192 notice of assessments and citations on an annual basis.
 - 205 citations per year by an IRA3 would require 1 FTE. (205 citations / 192 citations per IRA3 per year = 1.0 FTE)
 - Meal and rest break provisions and overtime rules take effect January 1, 2024. Therefore, L&I would need to hire and train the IRA3 to be ready to begin issuing citations and notice of assessments. This necessitates an October 1, 2023, start date.

Staffing – Hospital Staffing Plans

- 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.

Staffing – Minimum Staffing Requirements and Variance

- 1.0 FTE, Administrative Regulations Analyst (ARA) 4, temporary, for the period July 1, 2023, through June 30, 2028. Duties include establishing minimum staffing requirements and variance criteria; working with stakeholders; writing policies and rules that might be controversial; and forms development. Rules related to minimum staffing standards and variance criteria must be in place by January 1, 2027. However, it is anticipated that the ARA4 will be needed beyond this date for additional policy guidance.
- 1.0 FTE, Occupational Nurse Consultant (ONC), permanent, starting July 1, 2023. Duties include establishing minimum staffing requirements and variance criteria; 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 ARA4 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.

Staffing – Administration

- 1.0 FTE, Industrial Relations Agent (IRA) 4, permanent, starting October 1, 2023. Duties include supervising IRA3s and customer service staff; overseeing the complaint intake and assignment process; case review; and training and outreach. L&I currently has one IRA4 responsible for enforcing healthcare overtime. With the addition of 11 IRA3s, an additional IRA4 would be needed.
- 1.0 FTE, WMS 2, permanent, starting October 1, 2023. Duties include administering, overseeing, and directing all program activities; advising public entities and higher-level administrative staff on aspects of the program; making decisions of major significance that may affect the organization as a whole; and supervising one IRA4s, an ARA4, and an ONC.

Information Technology (IT)

- 1.0 FTE, IT Business Analyst - Journey, permanent, starting September 1, 2023. Duties include business analyst work supporting the IT project through implementation; managing all new or additional required functionality of the application; documenting customer and staff needs; managing backlogs, testing and quality assurance work, providing training; conducting demonstrations and other work to support customers and staff; implementing all required technology upgrades, evolving security needs, and migrating to the cloud or new legislative requirements. The original scope for the IT estimate in 2022 was focused on modifying an existing system; but with a shift in strategic direction this technology need would be addressed by a Software as a Service (SaaS) solution, Commercial Off the Shelf (COTS), or a Modified Off the Shelf (MOTS) solution. This FTE is needed to support the product management functions of this new system.

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.

This estimate is based on utilizing the Case/Complaint Management currently provided by Athient. A contracted project manager, business analyst and Solution Architect will be needed to manage the project, lead the requirements elicitation and work with the LNI IT team to integrate with existing applications. There are three main components needed - managing wage complaints, Hospitals providing their charter and a system to track administrative complaints, accepting the hospital staffing plans. This will impact the Front Counter system, Accounts Receivable and Collections (ARC) system, external Web Services.

A total of \$1.98 million is needed in the 2023-25 biennium for all information technology changes. This includes:

- Contractor costs – \$461,846 is needed for 3,065 contractor hours
- QA – \$271,634
- Software – \$1,150,000 (\$100,000 is needed each fiscal year beginning in fiscal year 2025)

Additional IT costs may be required as the minimum staffing standards are developed and variance process is established.

Rule making

\$10,000 is needed for four rule making hearings to occur during fiscal year 2024 and \$10,000 is needed for four rule making hearings to occur during fiscal year 2027. The average cost of one rule making hearing is \$2,500. (8 hearings x \$2,500 each = \$20,000)

Attorney General – Legal Services

\$568,000 is needed in both fiscal years 2025 and 2026, \$540,000 is needed each year beginning in fiscal year 2027 for legal services. Providing legal advice on complex rule making and handling the anticipated new appeals will require an additional 2.1 Assistant Attorney General (AAG) and 1.05 Legal Assistant (LA) in fiscal years 2025 and 2026. Beginning in fiscal year 2027, 2.0 FTE AAG and 1.0 FTE LA is required each year.

Administrative Hearings

\$30,000 is needed in fiscal year 2024 (6 appeals), \$59,000 is needed in fiscal year 2025 (11 appeals), and \$220,000 (41 appeals) is needed for each year after for administrative hearings at the Office of Administrative Hearings.

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	39,000	63,000	106,000	106,000	106,000	99,000
609 Medical Aid	7,000	11,000	17,000	17,000	17,000	18,000
Total:	\$46,000	\$74,000	\$123,000	\$123,000	\$123,000	\$117,000

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

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

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

Individual State Agency Fiscal Note

Bill Number: 5236 SB	Title: Hospital staffing standards	Agency: 300-Department of Social and Health Services
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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:

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: 01/10/2023
Agency Preparation: Sara Corbin	Phone: 360-902-8194	Date: 02/03/2023
Agency Approval: Dan Winkley	Phone: 360-902-8236	Date: 02/03/2023
OFM Review: Robyn Williams	Phone: (360) 704-0525	Date: 02/06/2023

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.

Senate Bill 5236 establishes minimum staffing standards in hospitals, requires hospital staffing committees to develop staffing plans, addresses mandatory overtime and meal/rest break coverages, and provides authority for enforcement.

Section 3 – Amends RCW 70.41.420 – Requires establishment of hospital staffing committee for hospitals by September 1, 2024. Sets forth rules for composition of the committee as well as duties and record requirements. Requirements include submitting an annual staffing plan. Also sets forth what should be considered when developing this plan. Starting July 1, 2025, plans must be submitted to the Department of Labor and Industries (L&I). Committees shall develop process to examine data and review complaints. Committee must also file a charter with L&I.

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

Section 6 – 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.

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.

Indeterminate federal cash receipts funded by federal Title XIX-Grants to States for Medical Assistance funds are anticipated.

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.

5236 SB will have an indeterminate fiscal impact to the Department of Social and Health Services (DSHS), Behavioral Health Administration (BHA). DSHS BHA does not assume that we would need to meet the staffing ratio requirements of this bill.

Indeterminate Fiscal Impacts

Without having an approved staffing plan DSHS BHA is unable to determine if additional staffing would be needed. If additional staffing is needed as part of the staffing plan funding will need be requested before implementation.

No costs are assumed or illustrated for any potential Information Technology system impact support needs; or associated fine costs (section 3, 4, and 6) that can be imposed upon BHA.

Determinate Fiscal Impact

Nursing Committee Impacts: Section 3 states that at least 50% of the members of the hospital staffing committee shall be nursing and ancillary health care personnel, who are nonsupervisory and nonmanagerial. In addition, Section 3 (1)(b) states participation in the hospital staffing committee by a hospital employee shall be on scheduled work time and compensated at the appropriate rate of pay. Hospital staffing committee members shall be relieved of all other work duties during meetings of the committee. Additional staffing relief must be provided to ensure committee members are able to attend hospital staffing committee meetings. This requirement will result in backfill costs for staff attending staffing committee meetings, and any other duties related to the staffing committee that may be required.

Cost impacts assume backfill will be needed 8 hours per month for a total of 96 hours per year for direct care staff representatives from each ward/cottage. The size of the committee is indeterminate; however, BHA assumes the following committee members, at a minimum participate: Chief Financial Officer, Chief Nursing Officer, and one representative per ward /cottage beginning September 1, 2024.

FY2024 – No cost

FY2025

ESH – 0.3 FTE’s and \$33,000 (\$28,000 GF-State)

WSH – 0.6 FTE’s and \$63,000 GF-State

CSTC – 0.1 FTE’s and \$18,000 (\$9,000 GF-State)

Total Impact: 1.0 FTE’s and \$114,000 (\$100,000 GF-State)

FY2026 & Ongoing

ESH – 0.4 FTE’s and \$40,000 (\$34,000 GF-State)

WSH – 0.8 FTE’s and \$76,000 GF-State

CSTC – 0.2 FTE’s and \$22,000 (\$11,000 GF-State)

Total Impact: 1.4 FTE’s and \$138,000 (\$121,000 GF-State)

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: *FTEs listed by classification and corresponding annual compensation. Totals 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

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: 5236 SB	Title: Hospital staffing standards	Agency: 303-Department of Health
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Jarrett Sacks	Phone: 360-786-7448	Date: 01/10/2023
Agency Preparation: Donna Compton	Phone: 360-236-4538	Date: 01/13/2023
Agency Approval: Kristin Bettridge	Phone: 3607911657	Date: 01/13/2023
OFM Review: Breann Boggs	Phone: (360) 485-5716	Date: 01/16/2023

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.

This bill doesn't direct Department of Health to take any action, nor does it impact any Department of Health statutes. Therefore, no fiscal impact.

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.

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.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals 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

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: 5236 SB	Title: Hospital staffing standards	Agency: 310-Department of Corrections
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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: 01/10/2023
Agency Preparation: Scherry Sinclair	Phone: (360) 725-8428	Date: 01/20/2023
Agency Approval: Ronell Witt	Phone: (360) 725-8428	Date: 01/20/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	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.

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 and policy assumptions that have revenue or expenditure impact on the responding agency.

This bill expands break and overtime laws for certain health care workers, and the purpose of this bill is to improve health care worker safety and working conditions, which leads to better patient care.

Section 3(1)(2) states that each hospital shall establish a staffing committee. Participation in the staffing committee shall be on scheduled work time and members shall be relieved of all other work duties during meetings of the committee. Additional staffing relief must be provided if necessary to ensure committee members are able to attend these meetings.

Section 7 amends RCW 49.28.140 and adds that for any work period for which an employee is entitled to one or more meal periods and more than one rest period, the employee and the employer may agree that a meal period may be combined with a rest period. Current CBA language for represented health care workers states that rest periods and meal periods will not be combined.

Section 8(1)(a)(i) outlines the definitions that apply throughout and RCW 49.28.14 and 49.28.150. This act applies to an employee who is employed by a health care facility as defined in subsection (3)(a)(v) and is owned and operated by the Department of Corrections (DOC).

Section 10 is amended to read that the Department of Labor and Industries (L&I) shall investigate complaints of violations of RCW 49.28.140.

Section 11 states that if L&I finds a violation of this chapter, the department shall order the employer to pay the department a civil penalty. The maximum penalty is \$1,000 for each violation up to three violations. If there are four or more violations of this chapter the employer is subject to a civil penalty of \$2,500 for the fourth violation, and \$5,000 for each subsequent violation. Each subsequent violation is appealable.

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.

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.

DOC inpatient units (IPU) are not considered are “hospitals” which are regulated by Department of Health (DOH) under RCW 70.41. In practice, DOH has not regulated DOC health care facilities as hospitals, DOC IPUs are not set up in the same way or provide anywhere near the level and breadth of care provided in hospitals, and elsewhere in the RCWs (see Section 8 of the bill, RCW 49.28.130 (3)(a) the Legislature defined “health care facilities” to include hospitals licensed under RCW 70.41 and facilities owned and operated by DOC, suggesting DOC facilities are not hospitals. For these reasons, Sections 1-7 of this bill do not apply to DOC because DOC does not operate “hospitals” as defined under RCW 70.41, therefore, no fiscal impact.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals 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

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: 5236 SB	Title: Hospital staffing standards	Agency: 360-University of Washington
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	21.2	43.7	32.5	44.0	44.0
Account					
General Fund-State 001-1	3,902,284	7,997,671	11,899,955	16,118,288	16,118,288
Total \$	3,902,284	7,997,671	11,899,955	16,118,288	16,118,288

In addition to the estimates above, there are additional indeterminate costs 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: 01/10/2023
Agency Preparation: Charlotte Shannon	Phone: 2066858868	Date: 01/14/2023
Agency Approval: Charlotte Shannon	Phone: 2066858868	Date: 01/14/2023
OFM Review: Ramona Nabors	Phone: (360) 742-8948	Date: 01/16/2023

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.

Senate Bill 5236 establishes minimum hospital nurse-to-patient staffing standards, expands break and overtime laws for certain health care workers, and requires hospital staffing committees to create staffing plans. The bill also creates an enforcement structure for these new standards, including monetary penalties for violations.

Section 2. Definitions

This section broadens the staff included in the current staffing committee law from nurses to all direct patient care staff. Direct care patient staff is defined as a “person who is providing direct care or supportive services to patients” but is not a physician or an advanced registered nurse practitioner. This section also adds a definition of “reasonable efforts” to obtain staffing coverage and a definition of “unforeseeable emergent circumstance.”

Section 3. Staffing Committee

This section makes changes to existing nurse staffing committee laws. Major changes include:

- Broadening the committee to include all patient care staff, changing the appointment process to the committee, eliminating the hospital’s ability to reject a staffing plan, and creating new requirements for the CEO to report to the committee
- Requiring staffing relief for committee attendees
- Requiring a uniform form for submission of staffing plans, limiting exemptions to staff assignments required by staffing plans, and modifying existing factors to be considered in developing staffing plans
- Removing the limitation on those eligible to submit complaints to the staffing committee by including patient care staff, collective bargaining representatives, patients, and other individuals. Requires staffing committee to review all complaints submitted
- Requiring the staffing committee to file a charter with the Department of Labor & Industries, including information on roles and responsibilities, committee processes, standards, and policies

Section 4. L&I Investigations

This section broadens the circumstances under which complaints can be filed and increases fines for staffing plan variations from \$100 per day to \$5,000 per day.

Section 5. Minimum Staffing Standards

This section directs the Department of Labor & Industries to adopt and implement rules establishing minimum staffing standards for direct patient care staff by 1/1/2027, and requires hospital compliance by 7/1/2027. The Department of Labor & Industries is also required to establish a process for hospitals to request a variance from minimum staffing standards.

Section 6. Enforcement of Staffing Plans and Committee Charters

Hospitals must submit staffing plans to the Department of Labor & Industries, which must review plans to ensure completeness and timeliness. Penalties of \$25,000 may be levied on hospitals that fail to timely submit a complete staffing plan or charter.

Section 7. Meal and Rest Breaks

This section reduces existing exceptions to meal and rest break requirements, expands the categories of staff they apply to, and permits employees to bundle meal and rest breaks upon agreement with their supervisor.

Section 8. Mandatory Overtime Definitions

This section expands mandatory overtime law to any health care facility employee involved in direct patient care activities or clinical services who receives an hourly wage or is covered by a collective bargaining agreement. It also further limits the “reasonable efforts” exemption and exemptions for an “unforeseeable emergent circumstance.”

Section 9. Mandatory Overtime and Pre-Scheduled On-Call

Section 9 creates a cap of 60 hours per month per employee for mandatory pre-scheduled on-call that leads to mandatory overtime, prohibits an employer from using pre-scheduled on-call for a non-emergent patient procedure, and prohibits the employer from using a “reasonable efforts” exemption for more than 3 months or for frequently recurring staff shortages.

Section 10. Investigation of Mandatory Overtime Law

This section requires the Department of Labor & Industries to investigate complaints of violations of mandatory overtime law under a process that is established in Sections 11 through 13.

Section 11. Enforcement

This section requires the Department of Labor & Industries to investigate complaints filed within 3 years of alleged violation and to issue a citation or closure within 90 days of the complaint being filed or provide written notice with good cause for an extension. The existing maximum civil penalty for mandatory overtime (\$1,000 for each violation up to three violations, \$2,500 for the fourth violation, and \$5,000 for each subsequent violation) shall also be applied to violations of this chapter, unless other penalties are noted.

Section 12. Appeal of Citations Under This Chapter

Appeals may be filed by aggrieved parties within 30 days. An administrative law judge will conduct a hearing.

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.

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.

In order to provide clear and concise analysis of the fiscal impacts of the sections noted above, the UW has grouped the impacts by area rather than section, given many of these cost drivers span multiple sections of the legislation.

Staffing Committee

Increased expenditures are anticipated with the proposed changes to the staffing committee. The committee is expanded to include additional patient care providers beyond nurses, which will expand the size of the committee, increasing the number of participants and requiring additional backfill for these participants while they are attending to committee duties and unable to care for patients. Additional responsibilities for administrative staff include reviewing and responding to all complaints (which will increase with this bill, which broadens the number of eligible parties to submit complaints and increases the circumstances under which they can do so), providing twice-yearly CEO reports to the staffing committee, and development and filing with the Department of Labor & Industries of a Committee Charter.

To estimate the impact of these new provisions, our model includes incremental increased hours from existing leadership and administrative staff, as well as hours from additional staff newly participating in the committee, which are listed in the expenditures tables. These include 0 additional FTE in FY24 due to an implementation date for this Section of September 1, 2024 (FY25), 1.21 FTE in FY25, and 1.58 FTE in FY26 and ongoing, and impacts 12 different job classes. The total costs for this are \$195,941 in FY25 and \$257,415 in FY26 and ongoing.

TOTAL DETERMINANT FISCAL IMPACTS FOR STAFFING COMMITTEE:

FY 24: \$0

FY 25: \$195,941

FY 26 and ongoing: \$257,415

Citations and Fines

New or increased citations and fines are included in several places in this legislation, including:

- Daily fines of \$5,000 until staffing plan is adopted by consensus of the committee
- Increased fines for staffing plan variations from \$100/day to \$5,000/day until the hospital submits an approved corrective action plan to the department and follows it for 90 days. The daily fines must accumulate until the 90-day timeframe has passed (which would be a minimum of \$450,000).
- Fines of \$25,000 for failure to submit a complete staffing plan or charter on time.
- For every violation of the chapter, unless otherwise noted, including violations of meal and rest breaks and mandatory overtime laws, the maximum penalty is \$1,000 for each violation up to three violations, \$2,500 for the fourth violation, and \$5,000 for each subsequent violation. These fines currently exist for mandatory overtime citations, however, under this proposed language they will apply to a broader group of employees.

In addition to these new fines, the legislation would remove any limitation on who could file a complaint and increase the number of employees to whom these standards apply.

TOTAL FISCAL IMPACTS FOR CITATIONS AND FINES:

These additional fines are significant; however, the total impact is indeterminate given our inability to predict with accuracy the frequency of citations and fines under the new proposed regulatory structure.

Minimum Staffing Standards

This legislation requires the Department of Labor & Industries to establish via rulemaking new minimum staffing standards, to become effective by July 1, 2027. An estimate of the impact of the staffing standards is not possible without knowing the prescribed staff to patient ratios. However, any ratio designed to increase the ratio of patient care staff to patients will increase labor costs accordingly. To estimate these increased costs, one should include the salary and benefits of additional patient care staff required due to changes in the ratios, the impact of adding additional break nurses and providers related to new meal and rest break provisions in the legislation, and the cost of additional training and onboarding – both for trainers and trainees.

We expect significant impacts due to high and increasing labor costs. At the time of development of these estimates, labor costs are expected to increase 7.0% from FY22 to FY23, and 13.8% from FY23 to FY24 and an additional 13.8% from FY24 to FY25.

TOTAL FISCAL IMPACTS FOR MINIMUM STAFFING STANDARDS:

Indeterminate but significant.

Mandatory Overtime

Mandatory overtime prohibitions will be expanded to additional classes of employees under this legislation, and this legislation narrows exemptions under which hospitals can use mandatory overtime. This will increase costs as hospitals will be required to hire additional staff. The impact of these changes is indeterminate. We are unable to estimate the impact of these new provisions given our current data do not differentiate between mandatory and voluntary overtime.

TOTAL FISCAL IMPACTS OF MANDATORY OVERTIME

Indeterminate but significant.

Mandatory Prescheduled On-Call

The legislation also limits overtime due to mandatory prescheduled on-call time of more than 60 hours per month per employee. This change would require UWMC and Harborview to hire additional staff to ensure sufficient staff coverage. To estimate the impact of this change, we used payroll data for all job classes with prescheduled on-call hours. We averaged the number of mandatory prescheduled on-call hours for groups of staff sharing a job title and department by number of employees on-call each month. If this average was above 60, we calculated how many additional FTE would be needed to keep that department below an average of 60. This is likely an underestimate, given that within a department

there may be differing specializations among individuals within a job class, requiring additional FTE to ensure that no employee exceeds the 60-hour limit. At UWMC, the cost is estimated to be \$2.7 million (14 FTE) in FY24 and \$5.4 million (28 FTE) in FY25. The estimated cost at Harborview is \$1.2 million (7 FTE) in FY24 and \$2.4 million (14 FTE) in FY25.

TOTAL FISCAL IMPACTS OF MANDATORY PRESCHEDULED ON-CALL:

FY 24: \$3,902,283
 FY 25 and ongoing: \$7,801,730

Appeals

This legislation creates a right to appeal Department of Labor & Industries rulings on complaints, creating a new process for review by an administrative law judge before an appeal to a civil judge can be made. While not possible to predict how many cases will be appealed, each appeal will come with significant potential additional legal costs for UWMC and Harborview attributable to this additional process step of a hearing by an administrative law judge. Defense costs, which are indeterminate, include witness interviews, document review, site visits, discussions and meetings with L&I investigators, drafting of all relevant defense materials, hearing preparation and appearance, and other related necessary defense work. An estimate of reasonable hourly attorneys' fees are: partner \$420, associate attorney \$289, and paralegal \$236.

TOTAL FISCAL IMPACTS FOR APPEALS:

Indeterminate but significant.

TOTAL FISCAL IMPACTS FOR SB 5236:

DETERMINATE:

There are significant determinate impacts driven by expansion and changes to staffing committees and changes to mandatory prescheduled on-call requirements.

FY24: \$3,902,284
 FY25: \$7,997,671
 FY 26 and beyond: \$8,059,144

INDETERMINATE:

There are significant indeterminate impacts driven by:

- New minimum staffing standards
- New citations and fines
- Changes to mandatory overtime provisions
- Changes to appeals

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	3,902,284	7,997,671	11,899,955	16,118,288	16,118,288
Total \$			3,902,284	7,997,671	11,899,955	16,118,288	16,118,288

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

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	21.2	43.7	32.5	44.0	44.0
A-Salaries and Wages	2,797,336	5,733,097	8,530,433	11,554,328	11,554,328
B-Employee Benefits	1,104,948	2,264,574	3,369,522	4,563,960	4,563,960
C-Professional Service Contracts					
E-Goods and Other Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	3,902,284	7,997,671	11,899,955	16,118,288	16,118,288

In addition to the estimates above, there are additional indeterminate costs 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*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Assistant	48,256		0.0	0.0	0.0	0.0
ARNP	172,879	0.3	0.7	0.5	0.7	0.7
Biomed E Tech	108,321	0.1	0.2	0.1	0.2	0.2
Cardiac Sonographer	69,833	0.3	0.5	0.4	0.5	0.5
Cardiac Tech	134,341	1.8	3.6	2.7	3.6	3.6
Computer Tech	105,649	0.0	0.1	0.1	0.1	0.1
Diagnostic Medical Sonographer	121,193	1.4	2.9	2.2	2.9	2.9
E Neuro Diag Tech	114,139	1.2	2.4	1.8	2.4	2.4
Echocardiographer	122,963	0.3	0.6	0.4	0.6	0.6
Electro Tech	98,169	0.4	0.8	0.6	0.8	0.8
HA/PCT/CNA/MA	60,032	1.1	2.6	1.9	2.7	2.7
Hospital Administrator	195,520		0.1	0.1	0.2	0.2
Imaging Tech	130,924	3.4	6.9	5.2	6.9	6.9
Instrument Tech	83,224	0.0	0.0	0.0	0.0	0.0
Interventional Tech	160,267	0.2	0.5	0.4	0.5	0.5
Manager	139,797		0.4	0.2	0.6	0.6
MHP	92,206	0.0	0.1	0.0	0.1	0.1
Occupational Therapist	94,374		0.1	0.0	0.1	0.1
Orthotics	96,587		0.0	0.0	0.0	0.0
PCC	78,650	1.1	2.2	1.6	2.2	2.2
Pharmacist	162,327	0.3	0.5	0.4	0.5	0.5
Physical Therapist	133,490		0.1	0.0	0.1	0.1
PSS	61,636	0.4	0.8	0.6	0.8	0.8
Rad Therapy Tech	102,931	0.1	0.3	0.2	0.3	0.3
Radiation Therapy Dosimetrist	120,696	0.0	0.1	0.1	0.1	0.1
Respiratory Care	141,966	0.6	1.3	1.0	1.3	1.3
RN	158,191	7.8	15.6	11.7	15.6	15.6
Social Worker	94,026		0.1	0.0	0.1	0.1
Specimen Proc	78,598	0.0	0.0	0.0	0.0	0.0
Surg Tech	81,244	0.1	0.2	0.1	0.2	0.2
Vascular Sono	148,254	0.2	0.5	0.3	0.5	0.5
Total FTEs		21.2	43.7	32.6	44.0	44.0

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

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.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5236 SB

Title: Hospital staffing standards

Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- Cities:
- Counties:
- Special Districts: Indeterminate but likely 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 time required to develop staffing plan and charter; number of new staff that would need to be hired and their respective hourly pay; signing bonus amounts; number of violations or instances of noncompliance with this chapter; number of cases requiring litigation

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

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

Part III: Preparation and Approval

Fiscal Note Analyst: Brandon Rountree	Phone: (360) 999-7103	Date: 01/20/2023
Leg. Committee Contact: Jarrett Sacks	Phone: 360-786-7448	Date: 01/10/2023
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 01/20/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 01/22/2023

Part IV: Analysis

A. SUMMARY OF BILL

Description of the bill with an emphasis on how it impacts local government.

This bill mandates the Department of Labor and Industries to set minimum staffing ratios for nurses and nursing assistants, redefines the clinical circumstance 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).

Sec. 3: (1) Hospitals must form “hospital staffing committee” by either creating a new committee or assigning the function to the existing nurse staffing committee.

(a) At least 50% of committee members must be nursing and patient care staff, who are currently providing direct patient care and hold a non-supervisory or non-managerial position.

(b) Up to 50% of the committee members can be selected by the hospital administration and shall include but not be limited to the chief financial officer, the chief nursing officers, and patient care unit directors or managers or their designees.

Sec. 4: 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.

Sec. 5: 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 Department of Labor and Industries (L&I) would be required to establish this maximum number of assigned patients by no later January 1, 2027.

- 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.”

Sec. 6: 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.

Sec. 7: This section reduces existing exceptions to meal and rest break requirements and expands the categories of staff they apply to.

Sec. 9: Prescheduled on-call shifts are limited to 60 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. Also, adds new language that establishes mandatory prescheduled on-call time may not be used when an employer schedules a non-emergent patient procedure which is expected to exceed the employee's regular scheduled hours of work.

Sec. 11: 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.

Sec. 12: Outlines the appeal process for a person, firm, or corporation to an L&I challenge a citation and notice of assessment.

B. SUMMARY OF EXPENDITURE IMPACTS

Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated 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 (WSHA), 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 impact on public hospital expenditures would be indeterminate. The new staffing requirements is not explicitly determined in the bill and would only be determined once the Department of Labor and Industries (L&I) established them as described in section 5 of this bill. Therefore, the amount of staff time required to generate a staffing plan and staffing committee charter cannot be estimated at this time.

Additionally, WSHA expects the changes made in section 9 to have a sizable, but indeterminable, impact on public hospital expenditures. They project a need to hire more nurses because the limit imposed on mandatory overtime could lead to a shortage in available nurses. WSHA expects rural and emergency hospitals to be impacted most by limit on mandatory overtime which could lead to them needing to hire more full-time or traveling nurses.

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

Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.

This bill would have no impact on local government revenues.

Sources:

2SHB 1868 Local Government Fiscal Note (2022)

HB 1868 Bill Analysis 2022

Washington State Hospital Association

Association of Washington Cities 2022 Salary Survey

Washington State Hospital Association