

Multiple Agency Fiscal Note Summary

Bill Number: 5476 SB	Title: Agricultural overtime
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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
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	0	0	0	0	0	0	0

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Office of Attorney General	Fiscal note not available											
Office of Administrative Hearings	Fiscal note not available											
Department of Labor and Industries	2.4	0	0	787,000	2.4	0	0	660,000	2.4	0	0	660,000
Total \$	2.4	0	0	787,000	2.4	0	0	660,000	2.4	0	0	660,000

Estimated Capital Budget Expenditures

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

Estimated Capital Budget Breakout

NONE

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Individual State Agency Fiscal Note

Bill Number: 5476 SB	Title: Agricultural overtime	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	2.4	2.4	2.4	2.4	2.4
Account					
Accident Account-State 608-1	380,000	271,000	651,000	542,000	542,000
Medical Aid Account-State 609-1	77,000	59,000	136,000	118,000	118,000
Total \$	457,000	330,000	787,000	660,000	660,000

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.

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Agency Preparation: Shana J Snellgrove	Phone: 360-902-6408	Date: 02/08/2023
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 02/08/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 02/08/2023

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	380,000	271,000	651,000	542,000	542,000
609-1	Medical Aid Account	State	77,000	59,000	136,000	118,000	118,000
Total \$			457,000	330,000	787,000	660,000	660,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	2.4	2.4	2.4	2.4	2.4
A-Salaries and Wages	165,000	165,000	330,000	330,000	330,000
B-Employee Benefits	64,000	64,000	128,000	128,000	128,000
C-Professional Service Contracts					
E-Goods and Other Services	202,000	95,000	297,000	190,000	190,000
G-Travel	6,000	6,000	12,000	12,000	12,000
J-Capital Outlays	20,000		20,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	457,000	330,000	787,000	660,000	660,000

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
Fiscal Analyst 5	71,520	0.1	0.1	0.1	0.1	0.1
Industrial Relations Agent 2 (Bilingual)	69,756	2.0	2.0	2.0	2.0	2.0
Revenue Agent 2	64,788	0.3	0.3	0.3	0.3	0.3
Total FTEs		2.4	2.4	2.4	2.4	2.4

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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.

Part II: Explanation

This bill grants agricultural employers the flexibility to select special circumstance periods for labor demand for which the overtime threshold will be at 50 hours in order for agricultural employees to earn overtime pay. By following set requirements for disclosure purposes, employers would be responsible for complying with agricultural recordkeeping requirements, adhering to the disclosure timelines, notifying workers of the special circumstance period following a prescribed timeframe, and adjusting the special circumstance period if, and only if, all three conditions are met.

This bill creates a new section declaring a state of emergency to take effect immediately.

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

Section 2 amends RCW 49.46.130:

- Section (2)(6)(b) adds an exception clause for (d) in that subsection to apply for the year 2023 in which the overtime threshold is at 48 hours per workweek.
- Section (2)(6)(c) adds an exception clause for (d) in that subsection to apply for the year 2024 in which the overtime threshold is at 40 hours per workweek.
- Section (2)(6)(d)(i) states that an agricultural employer can select any 12 weeks in a calendar year as special circumstance weeks for labor demand. During each of the selected 12 weeks, the employer may employ a worker for up to 50 hours before the overtime requirement applies.
- Section (2)(6)(d)(ii) holds agricultural employers responsible for complying with existing agricultural recordkeeping, requiring employers to track and keep records of the special circumstance weeks.
- Section (2)(6)(d)(iii) sets timeline requirements for when employers must disclose to workers when their special circumstance weeks will take place, using a good-faith estimate. Agricultural employers must disclose at least 30 days before the first expected special circumstance week, or upon hiring for workers who start fewer than 30 days in advance. Employers with H2A temporary work visa employees must disclose the special

circumstance weeks no later than the date when the worker's visa application is submitted – an H2A provision that must align with the federal H2A requirements.

- Section (2)(6)(d)(iv) requires employers to provide written notice to workers, at least annually, of the determined special circumstance weeks. This disclosure can be no later than seven days before the first special circumstance week, or upon hiring for those starting work after the seventh day. Employers may adjust the special circumstance period if three conditions are met:
 - The employer provides at least one week's notice in writing of any week being added or removed as a special circumstance week;
 - The employer's initial disclosure of the special circumstance weeks was predicted in good-faith with a reasonable expectation; and
 - The changes are based on circumstances unforeseen at the time of the initial disclosure.

Section 3 declares a state of emergency to take effect immediately.

II. B – Cash Receipt Impact

Receivables – Operating

The penalties received by L&I related to enforcing this bill are to be deposited in the Supplemental Pension Fund, fund 881. L&I has the authority to issue penalties. However, the dollar amounts of the penalties can vary. L&I has no way to predict the amounts of each citation under this bill. Therefore, the cash receipt impact is indeterminate.

II. C – Expenditures

Appropriated – Operating Costs

This 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

2.0 FTE, Industrial Relations Agent 2 (IRA2), bilingual, permanent, beginning July 1, 2023.

Duties include investigating overtime wage complaints from agricultural workers who file complaints under this bill, providing ongoing education and outreach to employers and workers, developing outreach materials, and answering questions from the public. This is based on the following assumptions:

- Based on Employment Security data, there are 200,000 potential wage complainants from agricultural employees in the state.
- The complaint rate for wage complaints is .002.
- 400 complaints are expected annually. (200,000 potential complaints X .002 complaint rate = 400)
- The average IRA2 handles 240 wage complaints per year.
- Therefore, 2 IRA2s are needed. (400 complaints / 240 per IRA2 = 1.7 FTE, rounded up to 2.0 due to ongoing education and outreach duties)

0.25 FTE, Revenue Agent 2 (RA2), permanent, beginning July 1, 2023. Duties include collection of final and binding citations issued for wage payment violations. In addition, this position will also perform duties including: evaluation of assets in connection in financial applications, business records, and financial statements for long-term payment plans; and monitor all bankruptcy suspensions. This is based on the following assumptions:

- 400 complaints are expected annually. (see calculation above)
- The historical average for complaints resulting in a citation is 14 percent.
- 56 citations are expected annually. (400 complaints X .14 citation rate = 56)
- The average RA2 handles 300 citations per year.
- Therefore, 0.25 RA2 is needed. (56 citations / 300 per RA2 = 0.2 FTE, rounded up to 0.25 based on the additional duties listed above)

Marketing/Outreach Campaign

\$90,000 for an outreach campaign that targets agriculture workers and employers in both English and Spanish will be necessary during the 2023-25 biennium. The 2021 legislature passed ESSB 5172 providing overtime standards for the agricultural workforce. This new law led to L&I

coordinating a major outreach campaign to educate the public about overtime changes that impacted dairy and agricultural workers. Therefore, a new campaign would be needed to inform the public about the change to existing overtime laws that had already been explained to the public.

Translation Costs

L&I will need to update 13 existing forms and publications and translate them into the eight common languages. Translation costs are estimated to be \$6,721 in fiscal year 2024.

Attorney General – Legal Services

\$27,000 is needed annually beginning in fiscal year 2024 for legal services. Providing legal advice and handling the anticipated new appeals will require an additional 0.1 Assistant Attorney General FTE.

Administrative Hearings

\$29,000 is needed in annually beginning in fiscal year 2024 for administrative hearings. This estimate is based on 11 appeals per year.

Indirect Costs

The amount included in this fiscal note for indirect is:

Fund Name		FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
608	Accident	13,300	13,300	13,300	13,300	13,300	13,300
609	Medical Aid	2,400	2,400	2,400	2,400	2,400	2,400
	Total:	\$15,700	\$15,700	\$15,700	\$15,700	\$15,700	\$15,700

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

None.