

Individual State Agency Fiscal Note

Bill Number: 5368 S SB	Title: Stay-at-work program	Agency: 235-Department of Labor and Industries
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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	0.5	1.1	0.8	1.1	1.1
Account					
Medical Aid Account-State -1	609 76,000	111,000	187,000	222,000	222,000
Total \$	76,000	111,000	187,000	222,000	222,000

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Susan Jones	Phone: 360-786-7404	Date: 02/08/2023
Agency Preparation: Bobby Kendall	Phone: 902-6980	Date: 02/13/2023
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 02/13/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 02/13/2023

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
609-1	Medical Aid Account	State	76,000	111,000	187,000	222,000	222,000
Total \$			76,000	111,000	187,000	222,000	222,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.5	1.1	0.8	1.1	1.1
A-Salaries and Wages	36,000	72,000	108,000	144,000	144,000
B-Employee Benefits	14,000	28,000	42,000	56,000	56,000
C-Professional Service Contracts					
E-Goods and Other Services	16,000	11,000	27,000	22,000	22,000
G-Travel					
J-Capital Outlays	10,000		10,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	76,000	111,000	187,000	222,000	222,000

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
Workers Compensation Adjudicator 3	68,076	0.5	1.0	0.8	1.0	1.0
Total FTEs		0.5	1.1	0.8	1.1	1.1

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

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

NONE

None.

Part V: New Rule Making Required

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

See attached

Part II: Explanation

This bill would allow employers with 100 or fewer employees to offer offsite light duty return to work opportunities to injured workers; amending RCW 51.32.090.

This bill takes effect January 1, 2024.

SSB 5368 is different from SB 5368 in that it:

- SSB 5368 updates language in Section 2(4)(m) accordingly:
 - Limiting the offer of return to work at established nonprofit organizations to employers with 100 or fewer employees.
 - The worker's time loss payments will continue or resume if the worker rejects the light duty job offer or otherwise terminates the off-site work with the nonprofit, and
 - The injured worker's experience gained through the return to work with the nonprofit may not be construed as acquisition of transferable skills and does not disqualify the worker from accessing vocational rehabilitation services or other retraining programs.
 - The employer of injury is allowed to contract with an established return to work reemployment agency to offer the return to work at the nonprofit. It also allows the department to contract with the reemployment agency.
 - The amendment removed the provision allowing workers to object to a placement for religious reasons.

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

Section 2: Amends RCW 51.32.090

(4)(b) In addition to the employer of injury, light duty work can be with an approved nonprofit pursuant to new subdivision (m) of this subsection.

(4)(1)(m) An employer with 100 or fewer employees may offer off-site light duty return to work to a worker pursuant to this subsection (4) with an established nonprofit organization approved by the department, subject to the following parameters and conditions:

- The employer of injury may not disclose the worker's medical restrictions with the nonprofit without the worker's written consent. If the worker does not consent to sharing their medical restrictions, any approved light duty work must be with the employer of injury.
- The employer is subject to the same reporting requirements;
- The employer of injury remains responsible for any new injury or occupational disease incurred while the worker is off-site light duty return to work;
- The injured worker does not forfeit any protections or benefits afforded to them under this title, and the injured workers may reject an off-site light duty return-to-work offer or otherwise terminate the off-site light duty return to work with the nonprofit organization in which case his or her temporary total disability payments must continue or be resumed;
- Except as otherwise provided under this subsection (4)(m), the offer of off-site light duty return to work with the nonprofit is subject to the same parameters and conditions as an offer of available work with the employer of injury;
- The employer of injury may be eligible for reimbursement if the department determines the employer qualifies; and
- The injured worker's experience gained through off-site light duty return to work with the nonprofit organization may not be construed as acquisition of transferrable skills and does not disqualify the injured worker from accessing vocational rehabilitation services.

(4)(n) In approving nonprofit organizations for off-site light duty return to work under (m) of this subsection, the department may contract with one or more established return-to-work employment agencies.

II. B – Cash Receipt Impact

Non-Appropriated – State Fund Premiums

As an insurance entity, L&I premium rates are intended to match premiums to claims cost projections. Therefore, for this fiscal analysis it is assumed that any incremental costs or savings will equal the incremental revenue collected.

Non-Appropriated – Premium Impact to Employers

Individual changes to the Accident and Medical Aid fund do not change rate assumptions by themselves. Cost increases are only one of many components in determining rates. The high-level strategy that is used to determine if a rate change is necessary is as follows:

- Review of liabilities, or costs of the Workers' Comp System.
- Investment earnings.
- Adequate revenue (premiums + investments) based on projected costs (actuarial estimates) will determine need for a premium change.

Non-Appropriated – Self-Insured Employers

If an employer chooses to be self-insured, they are responsible to pay for overall claim costs and a portion of administration costs of L&I's Self-Insurance Program and other costs of related support functions. The administrative assessment is an amount per dollar of claim benefit costs. If benefit costs are increased due to the change, self-insured employers would be assessed by L&I for their appropriate portion of administrative costs based on the increase. Incremental costs or savings will equal the incremental revenue collected from assessments.

II. C – Expenditures

Non-Appropriated – State Fund Benefits Costs

There is non-appropriated impact only to the Accident Account, fund 608, and Medical Aid Account, fund 609. (Non-appropriated costs are not included in the Fiscal Note Summary.) The following assumptions were used to calculate the estimates:

L&I estimates that 4,600 claims from Fiscal Injury Year 2022 will participate in Stay at Work. We assume that annual total would increase by 10% or approximately 460 (10% x 4,600) as a result of this bill. The change in section 2(4)(m) limiting the offer of return to work at established nonprofit organizations to employers with 100 or fewer employees reduced the estimated increase from 15% to 10%.

L&I estimates the average Stay at Work cost per participating claim to be \$3,651 in 2023. This would imply additional annual Stay at Work costs of \$1,679,000 (460 x \$3,651).

L&I assumes 75% of the new Stay at Work claims would have received time loss payments, and 25% would have been Kept-on-Salary (KOS) by their employers. Assuming an average compensation rate of 61% of wages, we would save an average of approximately \$4,500 ($\$3,651 \times 61\% / 50\%$) in time loss payments for each claim that would have received time loss. That implies an annual savings of \$1,553,000 ($\$4,500 \times 75\% \times 460$).

Participation in Stay at Work may also make some claims less likely to become long-term disability claims. Non-fatal Accident Fund costs for long-term disability claims (claims with more than 12 months of time loss payments) average approximately \$235,900. Accident Fund claim costs for non-KOS short-term disability claims (time loss payments less than 12 months) average approximately \$6,400. If 5% of the new Stay at Work claims avoided long-term disability due to participation in Stay at Work, that would represent an additional annual savings of approximately \$5,279,000 ($460 \times 5\% \times [\$235,900 - \$6,400]$).

The net annual savings would be $\$5,153,000 = \$5,279,000 + \$1,553,000 - \$1,679,000$.

Because the Stay at Work program focuses on new claims and the usage drops off significantly as claims age, we assume these annual savings would apply to new claims and there would be minimal impact on existing claims.

Appropriated – Operating Costs

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

Staffing

1.0 FTE, Workers' Compensation Adjudicator 3 (WCA3), permanent start date January 1, 2024. Duties include adjudicating all wage and expense applications on claims where the underlying industrial injury falls under a WCA3 medical complexity, including those submitted on claims that are reopened. Evaluates the impact of open appeals and orders issued by the Board of Industrial Insurance Appeals when making reimbursement decisions. Researches discrepancies if requesting employer's account does not match the account assigned to the claim, and determines the correct employer account under which to pay.

Workload Assumptions:

On average, the Stay at Work program receives two Stay at Work applications per claim. Assuming 4,600 claims from Fiscal Injury Year 2022 will participate in Stay at Work program, and a 10-percent increase the unit would receive 9,660 applications annually ($4,600 \times 10\% = 460$ additional claims = $5,060$ claims $\times 2$ applications per claim = $10,120$).

Currently, the program has eight full-time adjudicators who complete 8,880 applications per year. With a 10-percent increase, the program would receive 1,240 more applications per year than presently. ($10,120 - 8,880 = 1,240$).

Based on these numbers, the program would need an additional 1.0 permanent FTE ($1,240$ additional applications / $1,110$ applications completed annually per adjudicator = 1.12).

The change in section 2(4)(m) limiting the offer of return to work at established nonprofit organizations to employers with 100 or fewer employees reduced the estimated increase from 15% to 10%.

Rule making

\$5,000 is needed for two rule making hearings to occur late 2023 or early 2024. The average cost of one rule making hearing is \$2,500. (2 hearings x \$2,500 each = \$5,000)

Indirect Costs

The amount included in this fiscal note for indirect is:

Fund Name		FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
609	Medical Aid	4,000	7,000	7,000	7,000	7,000	7,000
	Total:	\$4,000	\$7,000	\$7,000	\$7,000	\$7,000	\$7,000

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

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

This legislation would result in rule changes to:

- WAC 296-16A-010, 020, 030, 040, and 050
- New rules on criteria for department approval of nonprofits