

Multiple Agency Fiscal Note Summary

Bill Number: 1491 S HB	Title: Employee personal vehicles
-------------------------------	--

Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Office of Administrative Hearings	0	0	40,000	0	0	80,000	0	0	80,000
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	40,000	0	0	80,000	0	0	80,000

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Office of Attorney General	Fiscal note not available											
Office of Administrative Hearings	.1	0	0	40,000	.2	0	0	80,000	.2	0	0	80,000
Department of Labor and Industries	1.3	591,000	591,000	591,000	1.4	420,000	420,000	420,000	1.4	420,000	420,000	420,000
Total \$	1.4	591,000	591,000	631,000	1.6	420,000	420,000	500,000	1.6	420,000	420,000	500,000

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	.0	0	0	.0	0	0	.0	0	0
Department of Labor and Industries	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

Prepared by: Anna Minor, OFM	Phone: (360) 790-2951	Date Published: Preliminary 2/20/2023
-------------------------------------	---------------------------------	---

Individual State Agency Fiscal Note

Bill Number: 1491 S HB	Title: Employee personal vehicles	Agency: 110-Office of Administrative Hearings
-------------------------------	--	--

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Hearings Revolving Account-State 484-1		40,000	40,000	80,000	80,000
Total \$		40,000	40,000	80,000	80,000

Estimated Operating Expenditures from:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.2	0.1	0.2	0.2
Administrative Hearings Revolving Account-State 484-1	0	40,000	40,000	80,000	80,000
Total \$	0	40,000	40,000	80,000	80,000

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: Trudes Tango	Phone: 360-786-7384	Date: 02/15/2023
Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 02/17/2023
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 02/17/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 02/18/2023

Part II: Narrative Explanation

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

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

Section 1 provides that employers or their agents may not search their employees' privately owned vehicles located on the employer's parking lots, garages, or access roads thereto. Some exceptions apply, including consent given immediately prior to the search. In addition, employees may keep any private property in their cars that they have a lawful right to possess. Employers may not require employees to waive these rights as a condition of employment. Further, employers may not take any adverse action against employees for exercising their rights under this bill.

Section 2 authorizes the Department of Labor and Industries (L&I) to investigate and cite violators, and gives L&I expanded authority to issue compensatory and other equitable relief. The Administrative Procedures Act will apply to appeals of these citations.

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

II. B - Cash receipts Impact

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

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

These cash receipts represent the OAH's authority to bill and are not a direct appropriation to OAH. Appropriation authority is necessary in OAH's budget.

II. C - Expenditures

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

The Department of Labor and Industries estimates that the proposed legislation will result in ten new appeals being referred to the Office of Administrative Hearings (OAH) per fiscal year beginning in FY 2024. On average, each appeal is expected to take approximately 20 hours of line Administrative Law Judge (ALJ) time including prehearing conferences, hearings, order writings, etc.

OAH Agency Workforce Assumptions:

- (1) The Governors proposed COLA increases in FY2024 and FY2025, and Collective Bargaining Agreement increases are not included in agency cost projections. Additional funding is required if these proposals are enacted.
- (2) Ratio of 1.0 FTE line ALJ to 0.15 Senior ALJ (SALJ), to 0.6 Legal Assistant 2 (LA2) (Range 40 step L), to 0.25 administrative support Management Analyst 5 (MA5) (Range 64 Step L).
- (3) ALJ salary is based on the ALJ collective bargaining agreement and assumed to be at step L. (Line ALJ-range 70. Senior ALJ-range 74.)
- (4) Benefit rates were analyzed by job class and projected using the latest benefit information available.
- (5) Goods and services, travel and on-going capital outlays were projected based on historical data for each of the job classifications.

Total workload impact beginning in FY 2025: 0.14 ALJ at a cost of \$23,267; 0.02 SALJ at a cost of \$3,763; 0.08 LA2 at a cost of \$8,393; 0.04 MA5 at a cost of \$5,188. The total cost is rounded to \$40,000 per FY.

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

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
484-1	Administrative Hearings Revolving Account	State	0	40,000	40,000	80,000	80,000
Total \$			0	40,000	40,000	80,000	80,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29	
FTE Staff Years		0.2	0.1	0.2	0.2	
A-Salaries and Wages		25,000	25,000	50,000	50,000	
B-Employee Benefits		8,000	8,000	16,000	16,000	
C-Professional Service Contracts						
E-Goods and Other Services		7,000	7,000	14,000	14,000	
G-Travel						
J-Capital Outlays						
M-Inter Agency/Fund Transfers						
N-Grants, Benefits & Client Services						
P-Debt Service						
S-Interagency Reimbursements						
T-Intra-Agency Reimbursements						
9-						
Total \$		0	40,000	40,000	80,000	80,000

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Law Judge	106,152		0.1	0.1	0.1	0.1
Legal Assistant 2	50,592		0.1	0.0	0.1	0.1
Total FTEs			0.2	0.1	0.2	0.2

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Regulatory & Education (REG)		40,000	40,000	80,000	80,000
Total \$			40,000	40,000	80,000

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: 1491 S HB	Title: Employee personal vehicles	Agency: 235-Department of Labor and Industries
-------------------------------	--	---

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	0.7	1.9	1.3	1.4	1.4
Account					
General Fund-State 001-1	315,000	276,000	591,000	420,000	420,000
Total \$	315,000	276,000	591,000	420,000	420,000

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: Trudes Tango	Phone: 360-786-7384	Date: 02/15/2023
Agency Preparation: Shana J Snellgrove	Phone: 360-902-6408	Date: 02/20/2023
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 02/20/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 02/20/2023

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.

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
001-1	General Fund	State	315,000	276,000	591,000	420,000	420,000
Total \$			315,000	276,000	591,000	420,000	420,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.7	1.9	1.3	1.4	1.4
A-Salaries and Wages	57,000	135,000	192,000	182,000	182,000
B-Employee Benefits	20,000	52,000	72,000	72,000	72,000
C-Professional Service Contracts	209,000		209,000		
E-Goods and Other Services	19,000	87,000	106,000	162,000	162,000
G-Travel		2,000	2,000	4,000	4,000
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 \$	315,000	276,000	591,000	420,000	420,000

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	0.5	0.5	0.5		
Fiscal Analyst 5	71,520		0.1	0.1	0.1	0.1
Industrial Relations Agent 2	66,420	0.2	1.0	0.6	1.0	1.0
Revenue Agent 2	64,788		0.3	0.2	0.3	0.3
Total FTEs		0.7	1.9	1.3	1.4	1.4

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.

See attached.

Part II: Explanation

This bill prohibits employers from searching employee personal vehicles except under certain exceptions, and prohibits employers from taking any adverse action against an employee for exercising any right under this bill. The bill creates a new type of complaint an employee can file with the Department of Labor & Industries (L&I), which L&I would be required to investigate. The bill requires L&I to investigate all employee complaints, and provides discretion to issue penalties and order the payment of costs for investigation and enforcement. L&I may also order appropriate relief due to the employer's adverse action.

This bill takes effect July 1, 2024.

SHB 1491 is different from HB 1491 in that it:

- Makes clarifying changes to make it clear that an employee's consent must occur immediately prior to the search and that it cannot be waived as a condition of employment.
- Allows L&I to adopt rules to further define "probable cause" and "private property".
- Prohibits adverse action for exercising rights.
- Gives L&I the authority to enforce the retaliation provisions and seek remedies including reinstatement and back pay.
- Changes the effective date from January 1, 2024, to July 1, 2024.

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

Section 2 (1) – Requires L&I to investigate and make a determination if an employee files a complaint. It also gives L&I the authority to require witness testimony and the production of documents as part of an investigation.

Section 2 (2) – Gives L&I the authority to order an employer to pay a civil penalty of \$1,000 for first time violations and \$5,000 for repeat violations; including costs of investigation and enforcement if violations are found. Each affected employee constitutes a separate violation.

Section 2 (3) – For any violation of section 1(4) of this act (adverse actions by an employer), the director may also order appropriate relief that includes any earnings the employee did not receive due to the employer's adverse action, including interest of one percent per month on all earnings owed. The earnings and interest owed will be calculated from the first date earnings were owed to the employee. The director may also order the employer to restore the employee to the position of employment held by the employee when the retaliation occurred, or restore the employee to an equivalent position with equivalent employment hours, work schedule, benefits, pay, and other terms and conditions of employment.

Section 2 (4) – L&I's determination can be appealed in accordance with 34.05 RCW.

Section 2 (5) – Requires that civil penalties must be deposited into the Supplemental Pension Fund in RCW 51.44.033.

Section 2 (6) – Gives L&I collection authority in accordance with RCW 49.48.086.

II. B – Cash Receipt Impact

This bill requires any civil penalties received by L&I to be deposited in the Supplemental Pension Fund, fund 881. The following assumptions were made in estimating the impact to L&I.

Section 2 (2) gives L&I the authority to order an employer to pay a civil penalty of \$1,000 for first time violations and \$5,000 for repeat violations; including costs of investigation and enforcement if violations are found. Each affected employee constitutes a separate violation. Because this involves investigating cases L&I currently doesn't investigate, L&I has no way of estimating how many first time violations there might be per year, and how many repeat violations there might be per year. Therefore, the cash receipt impact is indeterminate.

II. C – Expenditures

This bill will increase the number of investigations for L&I's Employment Standards program. Due to this being a new activity, the bill increases expenditures to General Fund-State. The following assumptions were used to estimate the resources requested to implement this bill.

Staffing

- 1.0 FTE, Industrial Relations Agent 2 (IRA2), permanent, beginning May 1, 2024. Duties include investigating complaints, developing investigation procedures, and developing

education and outreach materials. The following assumptions were used to develop this estimate:

- L&I received 1,481 meal and rest break complaints in 2022 and assumes it will receive 10 percent of those complaints under this new law, which equals 148 new complaints per year. The complexity of employee vehicle search cases are assumed to be similar to wage complaint investigations. The average IRA2 can investigate 240 wage complaints per year.
 - Therefore, 0.6 FTE is needed (148 complaints / 240 complaints per FTE = 0.6 FTE).
- L&I received 238 retaliation complaints in 2022 and assumes it will receive 10 percent of those complaints under this new law, which equals 24 new complaints per year. The average IRA2 can investigate 87 retaliation complaints per year.
 - Therefore, 0.3 FTE is needed (24 complaints / 87 complaints per FTE = 0.3 FTE).
- 1.0 FTE, Administrative Regulations Analyst 4 (ARA4), temporary, beginning January 1, 2024, through December 31, 2024. Duties include independently analyzing regulations, policies, procedures, and practices to provide expert consultation and written opinion to resolve complex regulatory issues or problems. The assumptions for this calculation are:
 - Controversial stakeholdering, rulemaking, and policy activities are complex in nature and require 1.0 FTE until these tasks are complete. A temporary ARA4 would be needed to oversee the rulemaking and policy work required to implement this bill.
- 0.3 FTE, Revenue Agent 2 (RA2), permanent, beginning July 1, 2024. Duties include collection of final and binding citations issued for violations. In addition, this position will 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:
 - 172 complaints are expected annually. (see calculation above)
 - L&I assumes 30 percent of complaints will result in a citation.

- 52 citations are expected annually. (172 complaints x .30 citation rate = 52)
- The average RA2 handles 300 citations per year.
- Therefore, 0.3 RA2 is needed. (52 citations / 300 per RA2 = 0.2 FTE, rounded up to 0.3 based on the additional duties listed above)

Information Technology

In order to implement this bill, L&I will need to add a new complaint type to the technology solution for complaint/case management system on the Aithent SaaS platform and a new Accounts Receivable Collection (ARC) receivable type will be needed for fines assessed and collected by L&I. This will require minimal IT contractor support needed for project management. This modification/enhancement is anticipated to take six months to deliver in fiscal year 2024, with a total cost of \$209,000.

The expenditure calculations in this fiscal note includes 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.

Rule Making

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

Attorney General-Legal Services

\$27,000 is needed annually beginning in fiscal year 2025 for legal services. Providing legal advice, supporting implementation and enforcement efforts, and handling the anticipated new appeals will require an additional 0.1 Assistant Attorney General FTE and 0.05 Legal Assistant FTE.

Administrative Hearings

\$40,000 is needed annually beginning in fiscal year 2025 for administrative hearings. This estimate is based on 10 appeals annually beginning in fiscal year 2025.

In HB 1491, L&I assumed approximately 14 percent of complaints would result in a citation and 20 percent of citations would result in an appeal. For SHB 1491, the citation rate percentage has been updated from 14 to 30 percent because of the newly added requirements for consent to be given immediately prior to search and the employer may not require an employee to waive consent, and for L&I to have enforcement over retaliation protections. Because L&I does not have existing data on citation rates for immediate consent, and retaliation complaints historically have a higher rate of complaints resulting in citation, L&I believes 30 percent is more representative of the citation rate.

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
001	General Fund	4,000	11,000	8,000	8,000	8,000	8,000
	Total:	\$4,000	\$11,000	\$8,000	\$8,000	\$8,000	\$8,000

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

New rules will need to be created to further define “probable cause” and “private property”.