

Multiple Agency Fiscal Note Summary

Bill Number: 5726 S SB	Title: Prevailing wage/public works
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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 Administrative Hearings	0	0	61,000	0	0	250,000	0	0	250,000
Total \$	0	0	61,000	0	0	250,000	0	0	250,000

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 Administrative Hearings	.1	0	0	61,000	.9	0	0	250,000	.9	0	0	250,000
Department of Labor and Industries	3.2	0	0	2,888,000	10.7	0	0	2,253,000	11.2	0	0	2,350,000
SWF Statewide Fiscal Note - OFM	Fiscal note not available											
Total \$	3.3	0	0	2,949,000	11.6	0	0	2,503,000	12.1	0	0	2,600,000

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
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
SWF Statewide Fiscal Note - OFM	Fiscal note not available								
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

NONE

Prepared by: Anna Minor, OFM	Phone: (360) 790-2951	Date Published: Preliminary 2/22/2023
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Individual State Agency Fiscal Note

Bill Number: 5726 S SB	Title: Prevailing wage/public works	Agency: 110-Office of Administrative Hearings
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Hearings Revolving Account-State 484-1		61,000	61,000	250,000	250,000
Total \$		61,000	61,000	250,000	250,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.3	0.1	0.9	0.9
Account					
Administrative Hearings Revolving Account-State 484-1	0	61,000	61,000	250,000	250,000
Total \$	0	61,000	61,000	250,000	250,000

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: 02/17/2023
Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 02/22/2023
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 02/22/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 02/22/2023

Part II: Narrative Explanation

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

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

Section 2, in both the original and substitute version, calls for a stipulation in many public work construction, maintenance, and repair contracts that the hourly minimum wage rate will be adjusted as necessary so that it is never less than the prevailing wage rate in effect when the work is performed.

Work activities associated with the enactment of this bill will begin on January 1, 2025.

II. B - Cash receipts Impact

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

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

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

II. C - Expenditures

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

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

FY 2025: L&I assumes five new appeals.

FY 2026 and in each FY thereafter: L&I assumes ten new appeals per FY.

On average, each appeal is expected to take approximately 60 hours of line Administrative Law Judge (ALJ) time including prehearing conferences, hearings, order writings, etc.

L&I assumes impact when L&I cites public works contractors who are not paying the latest minimum prevailing wage rate (or not having this provision in their public works contracts), which are then appealed to OAH.

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:

FY 2024: 0.21 ALJ at a cost of \$34,901; 0.03 SALJ at a cost of \$5,646; 0.13 LA2 at a cost of \$12,589; 0.05 MA5 at a cost of \$7,782. The total cost is rounded to \$61,000.

FY 2025 and in each FY thereafter: 0.43 ALJ at a cost of \$71,464; 0.06 SALJ at a cost of \$11,558; 0.26 LA2 at a cost of \$25,777; 0.11 MA5 at a cost of \$15,935. The total cost is rounded to \$125,000.

Work activities associated with the enactment of this bill will begin on January 1, 2025.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
484-1	Administrative Hearings Revolving Account	State	0	61,000	61,000	250,000	250,000
Total \$			0	61,000	61,000	250,000	250,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.3	0.1	0.9	0.9
A-Salaries and Wages		37,000	37,000	152,000	152,000
B-Employee Benefits		12,000	12,000	50,000	50,000
C-Professional Service Contracts					
E-Goods and Other Services		11,000	11,000	44,000	44,000
G-Travel				2,000	2,000
J-Capital Outlays		1,000	1,000	2,000	2,000
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	61,000	61,000	250,000	250,000

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Law Judge	106,152		0.2	0.1	0.4	0.4
Legal Assistant 2	50,592				0.3	0.3
Management Analyst 5	91,524		0.1	0.0	0.1	0.1
Senior Administrative Law Judge	117,168				0.1	0.1
Total FTEs			0.3	0.1	0.9	0.9

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Regulatory & Education (REG)		61,000	61,000	250,000	250,000
Total \$		61,000	61,000	250,000	250,000

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: 5726 S SB	Title: Prevailing wage/public works	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	1.1	5.3	3.2	10.7	11.2
Account					
Public Works Administration Account-State 234-1	1,396,000	1,492,000	2,888,000	2,253,000	2,350,000
Total \$	1,396,000	1,492,000	2,888,000	2,253,000	2,350,000

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: 02/17/2023
Agency Preparation: Donald Jenson Jr	Phone: 360-902-6981	Date: 02/22/2023
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 02/22/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 02/22/2023

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
234-1	Public Works Administration Account	State	1,396,000	1,492,000	2,888,000	2,253,000	2,350,000
Total \$			1,396,000	1,492,000	2,888,000	2,253,000	2,350,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.1	5.3	3.2	10.7	11.2
A-Salaries and Wages	89,000	310,000	399,000	1,241,000	1,316,000
B-Employee Benefits	32,000	131,000	163,000	529,000	556,000
C-Professional Service Contracts	1,217,000	779,000	1,996,000		
E-Goods and Other Services	58,000	170,000	228,000	461,000	466,000
G-Travel		2,000	2,000	12,000	12,000
J-Capital Outlays		100,000	100,000	10,000	
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	1,396,000	1,492,000	2,888,000	2,253,000	2,350,000

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Regulations Analyst 4	85,020	1.0		0.5		
Customer Service Specialist 2	46,980		2.5	1.3	5.0	5.0
Economic Analyst 2	73,260				0.0	0.5
Fiscal Analyst 5	71,520	0.1	0.3	0.2	0.7	0.7
Industrial Relations Agent 2	66,420		1.5	0.8	3.0	3.0
Industrial Relations Agent 3	69,756		0.5	0.3	1.0	1.0
Industrial Relations Agent 4	75,120		0.5	0.3	1.0	1.0
Total FTEs		1.1	5.3	3.2	10.7	11.2

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 relates to the prevailing wages on public works, amending RCW 39.12.015 and 39.12.030.

The differences between SSB 5726 and SB 5726 include:

- SSB 5726 adds the effective date of June 1, 2027 to section 1.
- SSB 5726 removes section 3 of SB 5726 dealing with sick leave buyouts for certain construction workers.
- SSB 5726 excludes ship building and ship repair from the changes to prevailing wage determinations.
- SSB 5726 changes the term “preponderance of hours worked” to “plurality of hours worked”.
- SSB 5726 excludes small works roster work from the requirement for public works contract to specify that wages paid to workers will not be less than the latest prevailing wage rate.
- SSB 5726 excludes housing projects where at least 50 percent of the residential units are made available for low-income households.
- SSB 5726 changes the effective date to January 1, 2025.

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

Section 1(4) amends RCW 39.12.015 by adding that for contracts bid or awarded on or after June 1, 2027, except as provided in RCW 39.12.017, and notwithstanding RCW 39.12.010(1), the Industrial Statistician shall establish the prevailing rate of wage by adopting the hourly wage, usual benefits, and overtime paid for the geographic jurisdiction established in collective bargaining agreements for those trades and occupations that have collective bargaining agreements. For trades and occupations with more than one collective bargaining agreement in the county other than ship building and ship repair rates:

Section 1 (4)(a) states the Industrial Statistician shall determine and prevail the rate that represents the majority of hours worked under collective bargaining agreements for a trade or occupation in the county. When a majority rate is not present, the Industrial Statistician shall determine and prevail the rate representing the plurality of hours worked under the collective bargaining agreements for a trade or occupation in the county.

Section 1 (4)(b) states that an interested party may contest a wage rate determination by alleging and proving by competent evidence that the actual rate used in the determination is less than the rate representing the majority number or plurality of hours. In the event of a contested rate, the appropriate Industrial Statistician must establish a rate to be used for the work in question until the final determination has been made.

Section 1(5) states that for contracts bid or awarded on or after June 1, 2027, for ship building and ship repair, the Industrial Statistician shall establish the prevailing rate of wage by adopting the hourly wage, usual benefits, and overtime paid for the geographic jurisdiction established in collective bargaining agreements. For the ship building and ship repair trades and occupations with more than one collective bargaining agreement in the county, the higher rate will prevail.

Section 2 adds language to RCW 39.12.030 that public works contracts stipulate that the hourly minimum rate of wage for laborers, workers, or mechanics must be adjusted as necessary to provide that such wage is not less than the latest prevailing rate of wage in effect at the time the work is performed, and supplies additional conditions.

Section 3 states that this act takes effect January 1, 2025.

II. B – Cash Receipt Impact

None.

II. C – Expenditures

Appropriated – Operating Costs

This bill increase expenditures to the Public Works Administration Account, fund 234. The following assumptions were used to estimate the resources requested to implement this bill.

Staffing

Section 1

1.0 FTE, Administrative Regulations Analyst 4 (ARA4), temporary, from July 1, 2023 through June 30, 2024. Duties include overseeing the rule making effort in conjunction with the Prevailing Wage Advisory Committee (PWAC). The assumptions for this calculation are:

- Based on section 1 of the bill, stakeholdering, rulemaking, and policy activities are complex in nature and require 1 FTE until these tasks are complete. A temporary ARA would be needed to oversee the rulemaking effort in conjunction with the PWAC.

0.5 FTE, Economic Analyst 2, permanent, beginning June 1, 2027. Duties include conducting wage surveys and overseeing the contests of wage rates in situations where more than one Collectively Bargained Agreement (CBA) rate exists for a given occupation within a county.

The assumptions for this calculation are:

- Aligned with section 1 of the bill, based on existing workload indicators for similar survey work that is currently conducted by L&I, approximately 1,000 hours per year will be needed to complete the CBA surveys, which will be conducted electronically, and oversee the contests of wage rates where more than one CBA rate exists within a county. (1,000 hours / 2,088 hours for 1 FTE = .48 FTE, rounded to .5 FTE)

Section 2

L&I is expecting an increase in cases and affidavits as a result of section 2 of the bill. Included is a matrix to show what the impacts will be depending on the number of cases and affidavits.

	High	Medium	Low
Cases	100	50	25
Cases Per IRA 2	16	16	16
IRA 2	6.25	3.13	1.56
IRA 3	2.00	1.00	1.00
IRA 4	2.00	1.00	-
Customer Service Specialist	High	Medium	Low
Intents Per Year	70,000	35,000	15,000
Intents Per Week	1,346	673	288
Intents Per Day	269	135	58
Intents processed	25	25	25
CSS 2	10.77	5.38	2.31

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

3.0 FTE, Industrial Relations Agent 2 (IRA2), permanent, beginning January 1, 2025. Duties include investigating prevailing wage complaints and violations of the prevailing wage laws in accordance with RCW 39.04 and 39.12 by obtaining evidence through document requests and auditing payroll records.

- Due to the increased complexity and time necessary to complete an investigation under this bill, L&I assumes this bill will increase the number of days it takes to complete an investigation from 180 days to 270 days, an increase of 90 days.
- Each IRA 2 can handle 16 cases per year based on the assumed complexity of these cases
- L&I assumes this bill will create 50 additional cases
- $50 \text{ cases} / 16 \text{ cases per year} = 3.13 \text{ FTE}$

1.0 FTE, Industrial Relations Agent 3s (IRA3), permanent, beginning January 1, 2025. Aligned with section 2 of the bill, duties include enforcing the prevailing wage laws, regulations, and requirements under RCW 39.04 and 39.12 and providing direction to other Industrial Relations Agents statewide regarding difficult or complex cases.

- The program will need one additional IRA3s as leads for the new IRA 2s and to assist with the high-level wage investigations.

1.0 FTE, Industrial Relations Agent 4s (IRA4), permanent, beginning January 1, 2025. Aligned with section 2 of the bill, duties include providing statewide technical expertise on compliance, education, and enforcement of prevailing wage under RCW 39.04 and 39.12 and supervision of the IRAs in the field.

- The program will need one additional IRA4s to supervise the new team of IRA2s and IRA3s being deployed.

5.0 FTE, Customer Service Specialist 2s (CSS2), permanent, beginning January 1, 2025. Aligned with section 2 of the bill, duties include assisting customers internally and externally via telephone and in person providing guidance on proper filing of affidavits to pay prevailing wages; uses the Prevailing Wage Intent and Affidavit (PWIA) system to process affidavits and certified payroll reports received.

- L&I receives an approximately 70,000 – 75,000 affidavits forms per year.
- It is assume that this bill will increase the number of affidavits by approximately 35,000 per year, or 135 affidavits per day.
- Each CSS2 can process 25 affidavits per day
- $135 \text{ affidavits per day} / 25 \text{ affidavits processed} = 5.38 \text{ FTE}$

A future decision package will be required if the number of cases or affidavits per year deviates from the assumptions above.

Information Technology

The expenditure calculations in this fiscal note include changes to the hourly rates for contract technology based on an annual analysis completed by Labor & Industries (L&I). These changes include rates based on expert skill level and an inflationary factor in all categories. All expenditures in this section are for the 2023-25 biennium.

Section 2 will require contract developers to modify and enhance the existing Prevailing Wage Intents and Affidavits Suite, an internal L&I system, and will take 18 months to complete. Quality Assurance (QA), hardware, software, and server infrastructure costs are also required for this effort.

A total of \$2,040,008 is needed in the 2023-25 biennium for all information technology changes. This includes:

- Contractor costs – \$1,790,616 is needed for 13,398 contractor hours
- QA – \$206,000
- Hardware – \$3,672
- Software – \$39,720

Rule making

Rule making will be required for both sections. \$10,000 is needed for four rule making hearings to occur during fiscal year 2024. The average cost of one rule making hearing is \$2,500 (4 hearings x \$2,500 each = \$10,000).

Administrative Hearings

The Office of Administrative Hearings (OAH) assumes the following costs, beginning in fiscal year 2025 related to section 2:

- Based on 10 appeals per year being heard at OAH.
- Due to the January 1, 2025 effective date, assume five appeals costing \$61,000 for fiscal year 2025.
- Based on 10 appeals, costing \$125,000 per year, beginning in fiscal year 2026.

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
234	Public Works Admin.	6,000	32,000	63,000	64,000	67,000	67,000
	Total:	\$6,000	\$32,000	\$63,000	\$64,000	\$67,000	\$67,000

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 296-127-011, Time for determining prevailing wage.
- WAC 296-127-019, Survey methodology
- WAC 296-127-023, Building service maintenance.