

Multiple Agency Fiscal Note Summary

Bill Number: 5348 S SB	Title: Warehouse employees
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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	106,000	0	0	106,000	0	0	106,000
Office of Administrative Hearings	0	0	61,000	0	0	122,000	0	0	122,000
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	167,000	0	0	228,000	0	0	228,000

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	.4	0	0	106,000	.4	0	0	106,000	.4	0	0	106,000
Office of Administrative Hearings	.2	0	0	61,000	.4	0	0	122,000	.4	0	0	122,000
Department of Labor and Industries	2.8	0	0	1,554,000	3.2	0	0	1,098,000	3.2	0	0	1,098,000
Total \$	3.4	0	0	1,721,000	4.0	0	0	1,326,000	4.0	0	0	1,326,000

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	.0	0	0	.0	0	0	.0	0	0
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: Final 2/23/2023
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Individual State Agency Fiscal Note

Bill Number: 5348 S SB	Title: Warehouse employees	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	53,000	53,000	106,000	106,000	106,000
Total \$	53,000	53,000	106,000	106,000	106,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.4	0.4	0.4	0.4	0.4
Account					
Legal Services Revolving Account-State 405-1	53,000	53,000	106,000	106,000	106,000
Total \$	53,000	53,000	106,000	106,000	106,000

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: 02/15/2023
Agency Preparation: Dave Merchant	Phone: 360-753-1620	Date: 02/20/2023
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 02/20/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	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.

Section 1. Definitions section.

Section 2. Employer must provide employees written descriptions of quotas, adverse action if fail to meet quotas, incentives – must be written plainly in employee’s preferred language.

Section 3. Quotas must provide reasonable time to complete tasks and cannot interfere with rights to rest and meal breaks or expose them to Occupational Safety and Health Administration (OSHA) and the Washington Industrial Safety and Health Act (WISHA) violations (including bathrooms, meal locations, etc.). Quotas that expose employees to WISHA violations are themselves WISHA violations. No retaliation for failure to meet quotas that don’t meet requirements.

Section 4. Quotas violate the act if they don’t give sufficient time to complete task. Employees not required to meet quotas violate the act.

Section 5. Quotas violate RCW 49.15 based on same criteria as Sec. 4. Employer cannot take adverse action. Employee actions to exercise right to safe workplace are considered time on task. Meal breaks are not time on task unless employer requires employee to be in a specific place. Rest breaks are time on task.

Section 6. Record-keeping requirements. Employee has right to ask for info and own data on quotas.

Section 7. Former employees can request records and data.

Section 8. No adverse action. Adverse actions within 90 days of exercising rights create rebuttable presumption of wrongful retaliation.

Section 9. The Department of Labor and Industries (L&I) will investigate and cite based on complaints or on own. Procedural details. Penalties. Money to state and to employee.

Section 10. Rights of appeal.

Section 11. Injunctive and monetary relief available. \$10,000 damages or treble actual damages. State can send to collections.

Section 12. The Attorney General’s Office (AGO) may bring civil or criminal actions.

Section 13. Rulemaking authorized.

Section 14. Savings clause.

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 agency is the Department of Labor and Industries (L&I). 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 agency's fiscal note. Appropriation authority is necessary in the AGO budget.

AGO AGENCY ASSUMPTIONS:

L&I will be billed for Seattle rates:

FY 2024, and in each FY thereafter: \$53,000 for 0.20 Assistant Attorney General FTE (AAG), and 0.10 Legal Assistant 3 FTE (LA).

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:

Legal services associated with the enactment of this bill will begin on July 1, 2024.

Location of staffing 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. The Management Analyst 5 (MA), is used as a representative classification. An example ratio is for every 1.0 Assistant Attorney General FTE (AAG), the AGO includes 0.5 FTE for a Legal Assistant 3 (LA) and 0.25 FTE of an MA.

1. 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 based on the enactment of this bill. The implementation of this bill will likely require significant policy making and rulemaking, which will require legal advice from July 1, 2023 to July 1, 2024. Increased awareness around the underlying related wage and hour issues for general rest breaks, meal periods, etc. is projected to drive a temporary increase in complaints and ultimately litigation in those areas. L&I's internal modeling projects that this bill, once implemented, will result in approximately 60 additional appealable orders per year. Using historic appeal rates this translates to 12 new appeals per year. Appeals of this complexity generally require 0.2 AAG FTE per 10 appeals.

LNI: Total Seattle workload impact:

FY 2024, and in each FY thereafter: \$53,000 for 0.2 AAG, and 0.1 LA.

2. The AGO Labor and Personnel Division (LPD) has reviewed this bill and determined it will not significantly increase or decrease the division's workload. The enactment of this bill will not impact the provision of legal services to LPD's client agencies because it will likely not impact many client agencies, if any. New legal services are nominal and costs are not included in this request.

3. The AGO Solicitor General's Office (SGO) has reviewed this bill and determined it will not significantly increase or decrease the division's workload. New legal services are nominal and costs are not included in this request.

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 Revolving Account	State	53,000	53,000	106,000	106,000	106,000
Total \$			53,000	53,000	106,000	106,000	106,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.4	0.4	0.4	0.4	0.4
A-Salaries and Wages	36,000	36,000	72,000	72,000	72,000
B-Employee Benefits	11,000	11,000	22,000	22,000	22,000
E-Goods and Other Services	6,000	6,000	12,000	12,000	12,000
Total \$	53,000	53,000	106,000	106,000	106,000

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	0.2	0.2	0.2	0.2	0.2
Legal Assistant 3-Seattle	67,044	0.1	0.1	0.1	0.1	0.1
Management Analyst 5	91,524	0.1	0.1	0.1	0.1	0.1
Total FTEs		0.4	0.4	0.4	0.4	0.4

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Labor & Industries Division (LNI)	53,000	53,000	106,000	106,000	106,000
Total \$	53,000	53,000	106,000	106,000	106,000

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: 5348 S SB	Title: Warehouse employees	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	122,000	122,000
Total \$		61,000	61,000	122,000	122,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.4	0.2	0.4	0.4
Account					
Administrative Hearings Revolving Account-State 484-1	0	61,000	61,000	122,000	122,000
Total \$	0	61,000	61,000	122,000	122,000

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: 02/15/2023
Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 02/18/2023
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 02/18/2023
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 2 requires each employer to provide each employee with a written, detailed description of each quota that applies to him/her, any potential adverse employment action for failing to meet the quota, and any incentives or bonuses for meeting or exceeding the quota. This written description must be given at the time of hire or within 30 days of the effective date of this bill, as well as at least two working days prior to the effective date of any modification to the existing quota(s). Employers must also give verbal notice of quota changes as soon as possible. "Employers" for purposes of this bill are those who employ or exercise control over large numbers of employees, specifically, at least 100 employees at a single warehouse or at least 500 employees among several warehouses in Washington.

Section 2 further provides that employers taking adverse action against employees for quota violations must provide employees with the applicable quota along with the employees' personal work speed data giving rise to the adverse action.

Section 4 provides that employees shall not be required to meet a quota that provides insufficient time for (a) meal or rest breaks, (b) reasonable travel to such breaks, (c) performing required activities necessary to the performance of their work subject to the quota, or (d) acts necessary for exercising their right to a safe and healthful workplace under Chapter 49.17 RCW. Section 4 also prohibits adverse action against employees for consequently failing to meet a quota, or an improperly disclosed quota.

Section 6 prescribes particularized recordkeeping duties relative to quotas.

Section 7 authorizes the employee at any time to request (a) a written description of each applicable quota, (b) a copy of the employee's personal work speed data over the prior six months, and (c) the work speed data of similar employees at the same warehouse. The employer must respond within a specified time and in a specific manner.

Section 8 prohibits persons including but not limited to employers and their agents from retaliating, discriminating, or taking adverse action against an employee or former employee for exercising, or being perceived as exercising, the employee or former employee's rights in this bill. This section identifies when a rebuttable presumption of unlawful retaliation applies, and the clear and convincing evidence necessary to rebut it.

Section 9 calls for the Department of Labor and Industries (L&I) to investigate complaints and impose civil penalties for violations.

Section 10 provides that appeals of L&I actions will be assigned to the Office of Administrative Hearings to conduct hearings and issue initial orders.

Pursuant to Section 16, this new chapter in Title 49 RCW, if enacted, takes effect 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 & 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 22 new appeals being referred to the Office of Administrative Hearings (OAH) per fiscal year beginning in FY 2025. On average, each appeal is expected to take approximately 13.1 hours of line Administrative Law Judge (ALJ) time including prehearing conferences, hearings, order writings, etc.

L&I assumes 11 Break, Wage, & Administrative violations and 11 Retaliation violations will be referred to OAH for appeals.

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: 0.21 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. Total rounded cost: \$61,000.

OAH 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	61,000	61,000	122,000	122,000
Total \$			0	61,000	61,000	122,000	122,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.4	0.2	0.4	0.4
A-Salaries and Wages		37,000	37,000	74,000	74,000
B-Employee Benefits		12,000	12,000	24,000	24,000
C-Professional Service Contracts					
E-Goods and Other Services		11,000	11,000	22,000	22,000
G-Travel					
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	122,000	122,000

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	0.2	0.2
Legal Assistant 2	50,592		0.1	0.1	0.1	0.1
Management Analyst 5	91,524		0.1	0.0	0.1	0.1
Senior Administrative Law Judge	117,168		0.0	0.0	0.0	0.0
Total FTEs			0.4	0.2	0.4	0.4

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Regulatory & Education (REG)		61,000	61,000	122,000	122,000
Total \$		61,000	61,000	122,000	122,000

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: 5348 S SB	Title: Warehouse employees	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	1.9	3.7	2.8	3.2	3.2
Account					
Accident Account-State 608-1	788,000	523,000	1,311,000	934,000	934,000
Medical Aid Account-State 609-1	151,000	92,000	243,000	164,000	164,000
Total \$	939,000	615,000	1,554,000	1,098,000	1,098,000

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.
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- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Susan Jones	Phone: 360-786-7404	Date: 02/15/2023
Agency Preparation: Crystal Van Boven	Phone: 360-902-6982	Date: 02/23/2023
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 02/23/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 02/23/2023

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.

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	788,000	523,000	1,311,000	934,000	934,000
609-1	Medical Aid Account	State	151,000	92,000	243,000	164,000	164,000
Total \$			939,000	615,000	1,554,000	1,098,000	1,098,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.9	3.7	2.8	3.2	3.2
A-Salaries and Wages	142,000	256,000	398,000	422,000	422,000
B-Employee Benefits	52,000	99,000	151,000	168,000	168,000
C-Professional Service Contracts	317,000		317,000		
E-Goods and Other Services	385,000	251,000	636,000	490,000	490,000
G-Travel	3,000	9,000	12,000	18,000	18,000
J-Capital Outlays	40,000		40,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	939,000	615,000	1,554,000	1,098,000	1,098,000

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	0.8		
Fiscal Analyst 5	80,952	0.1	0.2	0.2	0.2	0.2
Industrial Relations Agent 2	66,420	0.8	3.0	1.9	3.0	3.0
Total FTEs		1.9	3.7	2.8	3.2	3.2

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 would:

- Add a new chapter to Title 49 RCW, requiring rulemaking.
- Provide new protections to “warehouse distribution center” employees working under quotas. The Employment Standards Program would have authority to investigate and enforce the proposed requirements.

This act takes effect July 1, 2024.

SSB 5348 is different from SB 5348 in that it:

- Section 1 adds clarity in definition of “affiliate” by adopting specific language rather than cross-referencing RCW 82.04.290(2)(f). Includes additional definitions for “aggregated data”, “defined time period”, and others. Updates existing definitions for clarity, including “employer,” “quota,” and “warehouse distribution center.”
- Section 2 adds new sections and subsections to address the requirements related to quotas and the form of quota notices.
- Section 3 breaks out the time periods that can and cannot be included for the “time period” the quota applies.
- Section 4 sets forth the circumstances when a quota violates this chapter.
- Section 5 sets forth when quotas violate RCW 49.17 (existing health protections) and prohibits when the quotas can apply.
- Section 6 provides specific recordkeeping around quotas and actions taken because of quotas (and the failure to meet quotas).
- Section 7 provides the right to request a written description of quotas.
- Section 11 adds a private right of action
- Section 12 is adds a provision, which gives the attorney general’s office authority to file lawsuits for certain violations.

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

Section 1

Updates definitions for “quota”, “affiliate”, “aggregated data”, “defined time period”, “employer”, “employee”, and “warehouse distribution centers”.

The “warehouse distribution centers” to be included in the scope of this bill include:

- 100 or more employees at a single warehouse distribution center in the state, or
- 500 or more employees at one or more warehouse distribution centers in the state.

The scope of this bill is limited to employers in the following five (5) NAICs codes that meet the employment thresholds of a single warehouse or at multiple warehouses statewide:

- 493 for warehousing and storage;
- 423 for merchant wholesalers, durable goods;
- 424 for merchant wholesalers, nondurable goods;
- 454110 for electronic shopping and mail-order houses; or
- 492110 for couriers and express delivery services.

Section 2

Clarifies requirements for a written description of subjected quotas within 30 days of the effective date. Specifies requirements to provide employees with information on quotas used as a basis for adverse actions. Adds preferred language requirement for the quota descriptions.

Section 3

Defines time considered as productive time or time on task for consideration in a quota. Included “time to perform any activity required by the employer in order to do the work subject to the quota” in the bill.

Section 4

Specifies quota violations under this chapter, except as provided in Section 5. An employer may not take adverse action against an employee for failing to meet a quota that violates this section or any quota the employer did not disclose to the employee as required under Section 2 of this act.

Section 5

Specifies quota violations under 49.17 and bars an employer from applying a quota when it violates it, and bars adverse action for such circumstances. An employer who fails to allow adequate inspection of records in an inspection by the department within a reasonable time may not use such records in any appeal to challenge the correctness of any citation and notice issued by the department.

Section 6

Requires record creation and retention, including work speed data for individual employees, aggregated work speed data for similar employees, and written descriptions of each quota provided to an employee pursuant to subsection 2. Requires preservation of records relating to the basis for an adverse action for three years.

Section 7

Provides the right for employees and former employee to request written descriptions of quotas, including their own data and aggregated data of similar employees for the preceding 6 months. Employer must provide records within a specified time. An employer that does not use quotas or monitor work speed data has no obligation to provide records.

Section 8

Retaliation protections for this chapter. Updated “any person” to “any employee or former employee.” Includes a rebuttable presumption. Except as provided for in section 5 of this act, the department must carry out and enforce the provisions of this section and section 4 of this act pursuant to procedures established under chapter 49.46 RCW and any applicable rules. The department may adopt new rules to implement or enforce this subsection.

Section 9

An employee may file a complaint with the department alleging a violation under this chapter except for Sections 5 and 8 of the act. The department must investigate and may initiate an investigation without a complaint.

Section 10

Establishes appeals for this chapter (as provided in 34.05 RCW).

Section 13

Rule authority for chapter. L&I may adopt and implement rules to carry out and enforce the chapter.

Section 15

Sections 1-14 constitute a new act.

II. B – Cash Receipt Impact

Receivables – Operating

The proposed bill requires penalties received by L&I to be deposited in the Supplemental fund (required under RCW 51.44.033). The increase to revenue is indeterminate due to variables including, how many complaints will be received and how many of these cases will result in penalties.

II. C – Expenditures

Appropriated – Operating Costs

This proposed bill increases expenditures to the Accident Account, 608, and the Medical Aid Account, 609. The following assumptions were used to estimate the resources requested to implement this bill.

Staffing

1.0 FTE, Administrative Regulations Analyst 4 (ARA4), temporary from July 1, 2023 through December 31, 2024. Duties include: Rulemaking, conducting hearings and policy drafting.

- Controversial stakeholdering, rulemaking, and policy activities will be complex in nature and require full-time staff until these tasks are complete. L&I does not currently have any ARAs who do not already oversee a full portfolio of policy and rulemaking projects, therefore there is no ARAs who can absorb the full-time work required to oversee the new stakeholdering, policy, and rulemaking tasks created by this bill.

3.0 FTEs, Industrial Relations Agent 2 (IRA2), Permanent, Starting April 1, 2024, Duties Include: Investigate complaints for warehouse distribution workers subject to quotas of meal and rest breaks. Complaint/violation types relate to: rest and meal periods, wage, AV, and retaliation.

Workload Indicators

- 165,042 estimated workers affected under the listed NAIC codes.
 - 492110 = 13,989
 - 454110 = 0
 - 493 = 32,793
 - 423 = 71,615
 - 424 = 47,488

Total: 165,885 impacted workers

- 240 average cases an employee can complete in a year
- 87 average retaliation cases an employee can complete in a year.
- 1,597 meal and rest period complaints in 2021
- 777 administrative violation complaints/year (average of complaints 2019-2021)
- 6,675 wage complaints in 2021
- 238 retaliation complaints/year (average of complaints 2019-2021)

L&I estimates:

An additional 66 meal and rest period complaints. ($1,597 / 3,962,171$ estimated number of workers employed in 2021 = .0004, $165,042 \times .0004 = 66$ complaints. $66/240 = 0.3$ FTE).

An additional 44 administrative violation complaints ($777/3,524,381$ average number of workers in 2019-2021 = .0002, $165,042 \times .0002 = 33$, $33/240 = 0.1$ FTE).

An additional 441 wage violation complaints ($6,675/3,962,171$ estimated number of workers in 2021 = .002, $165,042 \times .002 = 330$, $330/240 = 1.4$ FTEs).

An additional 11 retaliation complaints ($238/3,524,381$ the average amount of workers in 2019-2021 = .000068, $165,042 \times .000068 = 14$, $14/87 = 0.1$ FTE)

The expansion of the definition of “warehouse distribution center” to include any establishments that engage in activities under the NAIC codes; not just establishments denominated by the NAIC code, will require 1 additional FTE to ensure proper enforcement

for those workers not denominated under the NAIC codes included, but still engaging within the defined activities.

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 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.

This bill provides new protections related to quotas for employees working at warehouse distribution centers with 100 or more employees at one location or 500 or more employees at warehouse distribution centers in the state. The information technology work is a candidate for SaaS/COTS procurement that could take 8 months to deliver, including procurement process. This will require IT contract support for project management, business analysis, solution architecture, web design and integration with existing Complaints Activity Tracking System (CATS), Accounts Receivable and Collections System (ARC) and Front Counter applications.

A total of \$577,000 is needed in the 2023-25 biennium for all information technology changes.

This includes:

- Contractor costs – \$275,228 is needed for 1850 contractor hours
- QA – \$41,500
- Software – \$350,000 (ongoing costs include \$100,000 per year in fiscal years 2026 – 2029)

Outreach Campaign

\$30,000 is needed for a social media campaign to inform workers and potential workers in this high-turnover industry of these new rights.

Rule making

\$12,500 is needed for 5 rule making hearings to occur during FY24. The average cost of one rule making hearing is \$2,500. (5 hearings x \$2,500 each = \$12,500)

Attorney General – Legal Services

The AGO assumes \$53,000 per fiscal year ongoing starting in FY 2024 for legal services related to implementation, investigations, enforcement and litigation under this bill.

Administrative Hearings

Office of Administrative Hearings assumes the following costs related to this bill, beginning in FY 2025:

- 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

Total cost rounded to \$61,000 per FY.

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	9,000	19,000	16,000	16,000	16,000	16,000
609	Medical Aid	2,000	4,000	3,000	3,000	3,000	3,000
	Total:	\$11,000	\$23,000	\$19,000	\$19,000	\$19,000	\$19,000

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:

- RCW 49.17
- RCW 51.44.033
- RCW 49.48.086

- RCW 34.05