

Multiple Agency Fiscal Note Summary

Bill Number: 5236 S SB	Title: Hospital staffing standards
-------------------------------	---

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	568,000	0	0	1,168,000	0	0	1,144,000
Office of Administrative Hearings	0	0	31,000	0	0	234,000	0	0	234,000
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Department of Social and Health Services	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	599,000	0	0	1,402,000	0	0	1,378,000

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	1.8	0	0	568,000	3.8	0	0	1,168,000	3.7	0	0	1,144,000
Office of Administrative Hearings	.1	0	0	31,000	.8	0	0	234,000	.8	0	0	234,000
Department of Labor and Industries	9.5	0	0	5,290,000	20.5	0	0	6,393,000	20.0	0	0	6,149,000
Department of Social and Health Services	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Department of Health	.1	0	0	12,000	.1	0	0	26,000	.0	0	0	0
Department of Corrections	.0	0	0	0	.0	0	0	0	.0	0	0	0
University of Washington	22.0	0	0	8,035,563	44.3	0	0	16,194,072	44.3	0	0	16,194,072
University of Washington	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
The Evergreen State College	.5	168,875	168,875	168,875	.1	15,872	15,872	15,872	.0	0	0	0
Total \$	34.0	168,875	168,875	14,105,438	69.6	15,872	15,872	24,030,944	68.8	0	0	23,721,072

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

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
Department of Social and Health Services	.0	0	0	.0	0	0	.0	0	0
Department of Health	.0	0	0	.0	0	0	.0	0	0
Department of Corrections	.0	0	0	.0	0	0	.0	0	0
University of Washington	.0	0	0	.0	0	0	.0	0	0
The Evergreen State College	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Breakout

Prepared by: Anna Minor, OFM	Phone: (360) 790-2951	Date Published: Final 3/ 2/2023
-------------------------------------	---------------------------------	---

Individual State Agency Fiscal Note

Bill Number: 5236 S SB	Title: Hospital staffing standards	Agency: 100-Office of Attorney General
-------------------------------	---	---

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		568,000	568,000	1,168,000	1,144,000
Total \$		568,000	568,000	1,168,000	1,144,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	3.7	1.8	3.8	3.7
Account					
Legal Services Revolving Account-State 405-1	0	568,000	568,000	1,168,000	1,144,000
Total \$	0	568,000	568,000	1,168,000	1,144,000

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: 02/08/2023
Agency Preparation: Amy Flanigan	Phone: 509-456-3123	Date: 02/13/2023
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 02/13/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	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.

Section 1: New Section – Findings, improving nurse and healthcare worker safety and working conditions leads to better patient care.

Section 2: Amends RCW 70.41.410 – Adds and changes definitions.

Section 3: Amends RCW 70.41.420 – Requires establishment of hospital staffing committee for hospitals by September 1, 2024. Sets forth rules for composition of the committee as well as duties and record requirements. Requirement include submitting an annual staffing plan. Also sets forth what should be considered when developing this plan. Starting July 1, 2025 plans must be submitted to the Department of Labor and Industries (L&I). Committees shall develop process to examine data and review complaints. Committee must also file a charter with L&I.

Section 4: Amends RCW 70.41.425 – Requires L&I to investigate complaints submitted as violations of RCW 70.41.420. If L&I determines there as a violation, L&I must oversee corrective plan of action and may impose civil penalties.

Section 5: New Section – Definitions, sets forth definitions for terms used in this legislation. Sets forth minimum staffing standards for hospitals. Establishes L&I as the department to enforce compliance issues.

Section 6: New Section – L&I must establish an advisory committee by September 1, 2023. Sets out how appointments to committee are made and what L&I must provide to the committee and what committee does.

Section 7: New Section – Requires L&I to review each hospital staffing plan for compliance with statute. L&I will monitor for violations and assess civil penalties.

Section 8: Amends RCW 49.12.480 – Makes changes to meal and rest break requirements as well as defining a clinical circumstance.

Section 9: Amends RCW 49.28.130 – Amends certain definitions.

Section 10: Amends RCW 49.28.140 – Changing time limits for on call time.

Section 11: Amends RCW 49.28.150 – Requires L&I to investigate complaints of violations of RCW 49.28.140 as set forth in section 11-13 of this Act.

Section 12: New Section – Includes investigation requirements for L&I, including timelines, and L&I responses at the end of an investigation. Gives L&I authority to assess civil penalties.

Section 13: New Section – Includes rights of appeal to those aggrieved by a citation or notice of assessment. Rules for review, including application of chapter 34.05 RCW.

Section 14: New Section – States that collections of unpaid penalties are governed by RCW 49.48.086.

Section 15: New Section – Allows L&I to adopt and implement rule making for purposes of this chapter.

Section 16: New Section – L&I can contract with consultants to administer this chapter.

Section 17: New Section – Washington state institute for public policy to conduct a study on hospital staffing standards.

Section 18: Repeals 2017 c 249 s 4.

Section 19: Specified sections are a new chapter in Title 49 RCW.

Section 20 and 21: Recodifications.

Section 22: Effective July 1, 2024 except for Section 18.

Section 23: Section 18 takes effect June 1, 2023.

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 agencies are the Department of Labor and Industries (L&I) and University of Washington (UW). 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 agencies' fiscal note. Appropriation authority is necessary in the AGO budget.

AGO AGENCY ASSUMPTIONS:

L&I will be billed for Seattle rates:

FY 2025 – FY 2027 (each year): \$568,000 for 2.1 Assistant Attorney General FTE (AAG) and 1.05 Legal Assistant 3 FTE (LA).

FY 2028: \$540,000 for 2.0 AAG and 1.0 LA and continuing in each FY thereafter.

UW will be billed for Seattle rates:

FY 2027: \$32,000 for 0.10 AAG and 0.10 LA and continuing in each FY thereafter.

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:

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

Assumptions for the AGO Labor and Industries Division (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.

L&I anticipates 684 additional complaints beginning January 1, 2024, when the changes to meal, rest breaks and overtime changes become effective. Historically, 30 percent of these types of investigations related to the health care industry result in final order. LNI estimates 205 final orders. A very conservative estimate of the appeal rate is 20 percent which results in 41 additional appeals.

Appeals of this complexity require approximately 0.5 FTE per 10 cases. Because the delay between when investigations occur in these matters and when citations and appeals occur the AGO would need resources beginning in July 2024 ($41/10 \times 0.5 = 2$ FTE).

The AAGs will also need to provide complex legal advice for implementation, policy making, and rulemaking over the first few years, which will require 0.1 FTE.

Based on the ongoing work of these complex matters and appeals, a total ongoing need of 2.1 AAG to address long-term client advice and litigation will be necessary beginning July 1, 2024, until June 30th, 2027. Beginning July 1, 2027, 2.0 AAG limited to the ongoing litigation.

LNI: Total Seattle workload impact:

FY 2025 – FY 2027 (each year): \$568,000 for 2.1 AAG and 1.05 LA.

FY 2028: \$540,000 for 2.0 AAG and 1.0 LA and continuing in each FY thereafter.

Assumptions for the AGO University of Washington Division (UOW) legal services for the University of Washington (UW):

The AGO will bill UW for legal services based on the enactment of this bill.

UOW anticipates additional work from the University’s hospitals once staffing minimums and related enforcement mechanisms are in effect. Anticipated additional related labor litigation as well.

UOW: Total Seattle workload impact:

FY 2027: \$32,000 for 0.1 AAG and 0.1 LA and continuing in each FY thereafter.

The AGO Agriculture & Health Division (AHD) has reviewed this bill and determined it will not significantly increase or decrease the division’s workload in representing the Department of Commerce (Commerce) or the Department of Health (DOH). Commerce was assigned this fiscal note request for its role in estimating the impact of bills on local governments. Commerce itself would not be given any new authorities or responsibilities under this bill. 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	State	0	568,000	568,000	1,168,000	1,144,000
	Revolving Account						
Total \$			0	568,000	568,000	1,168,000	1,144,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		3.7	1.8	3.8	3.7
A-Salaries and Wages		380,000	380,000	781,000	766,000
B-Employee Benefits		121,000	121,000	249,000	244,000
E-Goods and Other Services		63,000	63,000	130,000	128,000
G-Travel		4,000	4,000	8,000	6,000
Total \$	0	568,000	568,000	1,168,000	1,144,000

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		2.1	1.1	2.2	2.1
Legal Assistant 3-Seattle	67,044		1.1	0.5	1.1	1.1
Management Analyst 5	91,524		0.5	0.3	0.5	0.5
Total FTEs			3.7	1.8	3.8	3.7

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Labor & Industries Division (LNI)		568,000	568,000	1,136,000	1,080,000
University of Washington Division (UOW)				32,000	64,000
Total \$		568,000	568,000	1,168,000	1,144,000

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: 5236 S SB	Title: Hospital staffing standards	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		31,000	31,000	234,000	234,000
Total \$		31,000	31,000	234,000	234,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.2	0.1	0.8	0.8
Account					
Administrative Hearings Revolving Account-State 484-1	0	31,000	31,000	234,000	234,000
Total \$	0	31,000	31,000	234,000	234,000

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: 02/08/2023
Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 02/13/2023
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 02/13/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	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.

This substitute bill does not change the analysis of the impact of the original bill for the Office of Administrative Hearings (OAH), except for the section numbers and effective date. Now, under Section 5, by January 1, 2027, the Department of Labor & Industries (L&I) must develop rules prescribing minimum staffing standards for registered nurses (RN) and certified nursing assistants (CNA) who provide direct care to patients. These rules must include the maximum number of patients that an RN or CNA may be assigned during a shift, except in unforeseeable emergent circumstances. Hospital staffing committees must adopt written policies and procedures regarding this section, and comply with L&I's rules, by July 1, 2027.

Under Section 7, L&I will review each hospital's staffing plan for form and timeliness, and issue civil penalties for noncompliance. These civil penalties are appealable under Section 13, which provides that L&I will forward appeals to OAH for hearing and initial order.

Section 8 amends RCW 49.12.480 regarding meal and rest periods to allow employers and employees to agree to combine a meal and rest period during their shift. It also expands the scope of employers included in this statute to include hospitals without the previous exceptions by size and type.

Section 10 amends RCW 49.28.140 regarding overtime work by employees at health care facilities. Specifically, it limits the amount of mandatory pre-scheduled overtime to 60 hours per month and exempts overtime work that arises due to the employer's inability to obtain and retain staff despite making reasonable efforts. "Reasonable efforts" do not include using overtime to fix persistent or frequently reoccurring staff shortages.

Section 11 authorizes L&I to investigate and cite employers for violations. Any appeals of these citations will be forwarded to OAH.

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 estimates that the proposed legislation will result in new appeals being referred to the Office of Administrative Hearings (OAH) per fiscal year beginning in FY 2025.

FY 2025: 11 referred appeals

FY 2026 and in each FY thereafter: 40 referred appeals

On average, OAH assumes that each appeal is expected to take approximately 14 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:

FY 2025: 0.11 ALJ at a cost of \$18,282; 0.02 SALJ at a cost of \$2,957; 0.07 LA2 at a cost of \$6,594; 0.03 MA5 at a cost of \$4,076. The total cost is rounded to \$31,000.

FY 2026 and in each FY thereafter: 0.40 ALJ at a cost of \$66,479; 0.06 SALJ at a cost of \$10,752; 0.24 LA2 at a cost of \$23,978; 0.10 MA5 at a cost of \$14,823. The total cost is rounded to \$117,000 per FY.

Legal services 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	31,000	31,000	234,000	234,000
Total \$			0	31,000	31,000	234,000	234,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.2	0.1	0.8	0.8
A-Salaries and Wages		19,000	19,000	142,000	142,000
B-Employee Benefits		6,000	6,000	48,000	48,000
C-Professional Service Contracts					
E-Goods and Other Services		6,000	6,000	40,000	40,000
G-Travel				2,000	2,000
J-Capital Outlays				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	31,000	31,000	234,000	234,000

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	0.4	0.4
Legal Assistant 2	50,592		0.1	0.0	0.2	0.2
Management Analyst 5	91,524		0.0	0.0	0.1	0.1
Senior Administrative Law Judge	117,168		0.0	0.0	0.1	0.1
Total FTEs			0.2	0.1	0.8	0.8

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Regulatory & Education (REG)		31,000	31,000	234,000	234,000
Total \$		31,000	31,000	234,000	234,000

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: 5236 S SB	Title: Hospital staffing standards	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	5.4	13.5	9.5	20.5	20.0
Account					
Accident Account-State 608-1	2,255,000	2,240,000	4,495,000	5,435,000	5,226,000
Medical Aid Account-State 609-1	399,000	396,000	795,000	958,000	923,000
Total \$	2,654,000	2,636,000	5,290,000	6,393,000	6,149,000

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: 02/08/2023
Agency Preparation: Shana J Snellgrove	Phone: 360-902-6408	Date: 02/15/2023
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 02/15/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 02/15/2023

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	2,255,000	2,240,000	4,495,000	5,435,000	5,226,000
609-1	Medical Aid Account	State	399,000	396,000	795,000	958,000	923,000
Total \$			2,654,000	2,636,000	5,290,000	6,393,000	6,149,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	5.4	13.5	9.5	20.5	20.0
A-Salaries and Wages	512,000	1,074,000	1,586,000	3,112,000	3,022,000
B-Employee Benefits	169,000	385,000	554,000	1,142,000	1,110,000
C-Professional Service Contracts	616,000	163,000	779,000	63,000	18,000
E-Goods and Other Services	1,261,000	884,000	2,145,000	1,980,000	1,904,000
G-Travel	6,000	28,000	34,000	96,000	95,000
J-Capital Outlays	90,000	102,000	192,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	2,654,000	2,636,000	5,290,000	6,393,000	6,149,000

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	1.0	1.0	1.0	0.5
Fiscal Analyst 5	71,520	0.3	0.8	0.6	1.3	1.3
Industrial Relations Agent 2	66,420		1.7	0.9	2.2	2.2
Industrial Relations Agent 3	69,756	1.0	6.0	3.5	12.0	12.0
Industrial Relations Agent 4	75,120	0.3	1.0	0.7	1.0	1.0
IT Business Analyst - Journey	100,032	0.8	1.0	0.9	1.0	1.0
Occupational Nurse Consultant	130,248	1.0	1.0	1.0	1.0	1.0
WMS Band 2	104,887	1.0	1.0	1.0	1.0	1.0
Total FTEs		5.4	13.5	9.5	20.5	20.0

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 updates RCWs related to the regulation of mandatory overtime for certain healthcare workers, requires the Department of Labor & Industries (L&I) to conduct rulemaking to establish minimum nurse-to-patient staffing standards and a variance process for modification of those standards, expands meal and rest break laws for healthcare workers, and requires hospital staffing committees to create staffing plans which are subject to review, enforcement, and civil penalties for violation. It also adds a requirement for L&I to engage in negotiated rule making.

SSB 5236 is different from SB 5236 in that it:

- Requires hospital staffing committees to file a charter with L&I by January 1, 2025, and modifies provisions for what the charter must include.
- Requires L&I to provide technical assistance to staffing committees to assist in compliance with the staffing committee statutes.
- Provides that the hospital staffing plan must be adopted by a 50-percent-plus-one vote of the staffing committee, rather than a consensus of the staffing committee.
- Modifies the anti-retaliation provision of the staffing committee statute to prohibit retaliation, intimidation, or taking an adverse action against an employee performing hospital staffing committee duties or voicing staffing concerns.
- Allows L&I to investigate violations of the nurse staffing committee statutes and minimum staffing standards without a complaint if it discovers information suggesting a violation occurred.
- Modifies the definition of “unforeseeable emergent circumstance”.
- Requires L&I to engage in negotiated rulemaking to establish the minimum staffing standards for nurses and nursing assistants.
- Requires L&I to convene a negotiated rule-making committee that includes representatives of the hospitals and hospital systems, frontline hospital patient care staff, L&I, the Department of Health, and the Washington State Institute for Public Policy.
- Adds requirements around the negotiated rule-making committee’s processes for reaching consensus, voting, and recommending rules to L&I.

- Requires L&I to establish an advisory committee on hospital staffing by September 1, 2023, to advise L&I on the development of the uniform hospital staffing plan form and any rulemaking not covered by the negotiated rule-making committee, and to review and make recommendations on variances or innovative hospital staffing models.
- Requires the Washington State Institute for Public Policy to survey hospitals and report to the advisory committee on hospital staffing and existing uses of innovative hospital staffing models by December 1, 2023.
- Allows L&I to grant variances from the minimum staffing standards for innovative staff and care delivery models.
- Modifies the definition of “overtime”.
- Changes the effective date of most of the bill from January 1, 2024, to July 1, 2024.
- Requires the Washington State Institute for Public Policy to conduct a study on hospital staffing standards for direct care registered nurses and direct care nursing assistants.

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

Section 2 amends RCW 70.41.410 by updating definitions pertaining to Section 2, RCW 70.41.420 and 70.41.425 (as recodified by this act), unless clearly stated otherwise:

1. “Department” means L&I.
2. “Director” means the director of L&I or the director’s authorized representative or designee.
3. “Hospital” is defined in RCW 70.41.020 and includes state hospitals defined in RCW 72.23.010.
4. “Hospital staffing committee” means a committee established by a hospital under RCW 70.41.020.
5. “Intensity” means level of patient need for nursing care, as determined by the nursing assessment.
6. “Nursing and patient care staff” means a person who is providing direct care or supportive services to patients but is not a physician licensed under chapter 18.71 or 18.57 RCW, a physician's assistant licensed under chapter 18.71A RCW, or an advanced

registered nurse practitioner licensed under RCW 18.79.250 unless working as a direct care registered nurse.

7. "Patient care unit" means any unit or area of the hospital that provides patient care by registered nurses.
8. "Reasonable efforts" means that the employer exhausts and documents all of the following but is unable to obtain staffing coverage:
 - (a) Seeks individuals to consent to work additional time from all available qualified staff who are working;
 - (b) Contacts qualified employees who have made themselves available to work additional time;
 - (c) Seeks the use of per diem staff; and
 - (d) Seeks personnel from a contracted temporary agency when such staffing is permitted by law or an applicable collective bargaining agreement, and when the employer regularly uses a contracted temporary agency.

“Reasonable efforts” does not mean circumstances when an employer is chronically short staffed with vacancies that persist longer than 90 days or have frequently recurring absences.

9. “Skill mix” has been updated to mean the experience of, and number and relative percentages of, nursing and patient care staff.
10. "Unforeseeable emergent circumstance" means:
 - (a) Any unforeseen declared national, state, or municipal emergency; or
 - (b) When a hospital disaster plan is activated.

“Unforeseeable emergent circumstance” does not mean a declared national, state, or municipal emergency or when a health care facility disaster plan is activated, if the events persist longer than 90 days.

Section 3 amends RCW 70.41.420 by updating hospital staffing committee requirements currently enforced by Department of Health.

1. Requires all hospitals to establish a hospital staffing committee by September 1, 2024. Hospital staffing committees must be comprised of:

- (a) A minimum of 50 percent of hospital staffing committees are to include non-supervisory/non-managerial nursing and patient care staff.
 - (b) Up to 50 percent of the members of the hospital staffing committee shall be determined by the hospital administration and shall include but not be limited to the chief financial officer, the chief nursing officers, and patient care unit directors or managers or their designees.
2. All hospital staffing committees must occur during work hours and be compensated and additional staffing must be provided, if necessary, to ensure committee members can attend.
3. Provides committee responsibilities that include:
 - (a) Development and oversight of a patient care unit and shift-based hospital staffing plan and using a standard format or form created by L&I in consultation with the advisory committee established in section 6.
 - (b) Semiannual review of staffing plans.
 - (c) Review, assess, and respond to staffing variations or complaints.
4. Hospital finances and resources must be taken into account.
5. Staffing plan must consider state and federal guidelines and collective bargaining agreements.
6. This subsection states:
 - (a) If annual staffing plan is not adopted, prior annual staffing plans remain in effect and hospital is subject to daily fines of \$5,000 licensed under Chapter 70.41 RCW or \$100 for other specified hospital types.
 - (b) The chief executive officer or their designee must provide semiannual written feedback.
 - (c) Each hospital shall submit staffing plan to L&I annually, beginning July 1, 2025, and when updated.
7. Beginning July 1, 2025, each hospital shall implement its staffing plan.
 - (a) Any individual may report violations of the staffing plan to the staffing committee.
 - (b) Shift-to-shift adjustments may be made by appropriate hospital personnel. Complaints may be submitted to the staffing committee.

- (c) Staffing committees shall develop a process to respond to complaints. All complaints must be reviewed without discrimination.
 - (d) In the event of an unforeseeable emergent circumstance, the hospital incident command shall report within 30 days to the cochairs of the hospital staffing committee an assessment of the staffing needs arising from the unforeseeable emergent circumstance and the hospital's plan to address those identified staffing needs.
8. Each hospital shall post staffing plan in a public area on each patient care unit.
 9. Hospitals may not retaliate against an employee for performing hospital staffing committee duties, or retaliating against individuals for reporting concerns to the committee or administration.
 10. This section is not intended to create unreasonable burdens on critical access hospitals under 42 U.S.C. Sec. 1395i-4.
 11. By January 1, 2025, the hospital staffing committee must file a charter with L&I, which provides a number of requirements.
 12. L&I must provide technical assistance to hospital staffing committees to assist with compliance with this section.

Section 4 amends RCW 70.41.425.

1. L&I shall investigate complaints for violations of RCW 70.41.420.
 - (a) Complaints must include documentation showing failure to:
 - i. Form or establish a hospital staffing committee;
 - ii. Conduct a semiannual review of a nurse staffing plan;
 - iii. Submit a nurse staffing plan on an annual basis and any updates; or
 - iv. Follow the nursing personnel assignments in a patient care unit in violation of section 3, RCW 70.41.420(7)(a), or shift-to-shift adjustments in staffing levels in violation of RCW 70.41.420(7)(b).
 - (b) L&I may investigate and take appropriate enforcement action without any complaint if the department discovers information suggesting any violation of RCW 70.41.420.

- (c) Once L&I has completed an investigation, the hospital will have 45 days to submit a corrective plan of action.
 - (d) Hospitals will not be found in violation if:
 - i. There were unforeseen emergent circumstances and the process under (d) of this subsection has been followed, if applicable; or
 - ii. The hospital, after consultation with the hospital staffing committee, documents reasonable efforts to obtain and retain staffing to meet required assignments but has been unable to do so.
 - (e) Hospital incident command shall report hospital needs to the staffing committee within 30 days of deviating from the staffing plan due to unforeseeable emergent circumstances. Deviation from staffing plan may not exceed 90 days without approval of hospital staffing committee who will develop the contingency staffing plan.
2. If a hospital fails to submit or follow a corrective plan of action, L&I may impose a daily violation of \$5,000 licensed under Chapter 70.41 RCW or \$100 for other specified hospital types until the hospital submits a corrective action plan that has been approved by L&I, and follows the corrective plan of action for 90 days. Once followed for 90 days L&I may reduce fines. Revenue from fines will be deposited into the Supplemental Pension Fund established under RCW 51.44.033.
 3. Records of any civil penalty and administrative actions imposed on hospitals are subject to public disclosure and violations shall be publicly posted on L&I's website.
 4. Complaints can be submitted to L&I for violations of RCW 70.41.420 regardless of the provisions in this section.

Section 5 (new):

1. Establishes definitions unless the context clearly requires otherwise.
 - (a) "Department" means L&I.
 - (b) "Direct care nursing assistant-certified" means an individual certified under Chapter 18.88A RCW who provides direct care to patients.
 - (c) "Direct care registered nurse" means an individual licensed as a nurse under Chapter 18.79 RCW who provides direct care to patients.

- (d) "Director" means the director of L&I of the director's authorized representative or designee.
 - (e) "Hospital" has the same meaning as defined in RCW 70.41.020.
 - (f) "Hospital staffing committee" means the committee established by a hospital under RCW 70.41.420.
 - (g) "Patient care unit" means any unit or area of the hospital that provides patient care by registered nurses, including but not limited to a critical care unit, burn unit, labor and delivery room, post-anesthesia service area, emergency department, operating room, pediatric unit, step-down/intermediate care unit, specialty care unit, telemetry unit, general medical care unit, subacute care unit, and transitional inpatient care unit.
 - (h) "Unforeseeable emergent circumstances" means:
 - i. Any unforeseen declared national, state, or municipal emergency; or
 - ii. When a health care facility disaster plan is activated."Unforeseeable emergent circumstance" does not mean a declared national, state, or municipal emergency or when a health care facility disaster plan is activated, if the events persist longer than 90 days.
2. Requires L&I to adopt and implement rules establishing minimum standards for direct care registered nurses and direct care nursing assistants-certified in patient care units no later than January 1, 2027.
 3. Establishes staffing standard requirements.
 - (a) Hospitals shall comply with minimum staffing standards in accordance with this section no later than July 1, 2027.
 - (b) Requires L&I to enforce this section under sections 12 through 14 of this act.
 4. These staffing standards shall constitute the minimum number of direct care registered nurses and direct care nursing assistants-certified that shall be allocated.
 5. The minimum staffing standards established in this section may not replace any more favorable nurse-to-patient staffing levels:
 - (a) Established pursuant to a collective bargaining agreement; or

- (b) Established under a hospital's staffing plan in effect as of January 1, 2022, unless a hospital staffing committee in full compliance with the standards under RCW 70.41.420 takes a 50 percent plus one vote after January 1, 2027.
- 6. A direct care registered nurse or direct care nursing assistant-certified may not be assigned by hospitals to a nursing unit or clinical area unless that nurse has first received orientation in that clinical area sufficient to provide competent care to patients in that area and has demonstrated current competence in providing care in that area. Hospital staffing committees shall adopt written policies and procedures under this section no later than July 1, 2027.
- 7. L&I must adopt and implement rules to define variance and innovative hospital staffing and care delivery criteria.
- 8. The director shall engage in negotiated rule making under RCW 34.05.310(2)(a) to adopt the rules required by this section. The negotiated rule-making topics must include the nurse staffing ratios and the requirements for variances and innovative hospital staffing and care delivery models as required by this section.
 - (a) The department must convene a group of affected stakeholders to ensure balanced representation of individuals who have direct expertise in hospital staffing and working conditions and should reflect a diversity of hospital settings.
 - (b) The negotiated rule-making committee shall hold its first meeting by January 1, 2025.
 - (c) Stipulates the required membership of the negotiated rule-making committee.
 - (d) Any list submitted to the department for the initial appointment of members pursuant to this subsection must be provided by November 1, 2024.
 - (e) If any member of the negotiated rule-making committee is unable to continue to serve on the committee, the director must select a new member based on the recommendations of either the hospital association for members appointed under (c)(i) of this subsection or the collective bargaining representative for members appointed under (c)(ii) of this subsection.

- (f) The negotiated rule-making committee shall discuss and propose rules on the topics required by this section and shall attempt to reach unanimous consensus on these matters.
- (g) L&I must provide administrative support for the negotiated rule making. L&I may hire a facilitator to chair the negotiated rule-making meetings, impartially assist the members of the committee in conducting discussions and negotiations, and manage the keeping of minutes and records.
- (h) If changes or updates are needed to the rules adopted under this section, L&I may conduct additional rule making as needed.

Section 6 (new):

1. L&I must establish an advisory committee on hospital staffing by September 1, 2023.
2. Appointments to the advisory committee on hospital staffing shall be made by the director. Members of the committee must have expertise in hospital staffing and working conditions and should reflect a diversity of hospital settings. This subsection stipulates required membership of the committee.
3. Any list submitted to L&I for the initial appointment under this section must be provided by July 1, 2023.
4. If any member of the negotiated rule-making committee is unable to continue to serve on the committee the director shall select a new member based on the recommendations of either the hospital association for members appointed under subsection (2)(a) of this section or the collective bargaining representative for members appointed under subsection (2)(b) of this section.
5. The advisory committee on hospital staffing shall meet at least once per month until the hospital staffing plan uniform form is developed.
6. The advisory committee on hospital staffing shall advise L&I on its development of the uniform hospital staffing plan form.
7. At the discretion of L&I, the advisory committee on hospital staffing may advise on any rule making undertaken by L&I that is not covered by the negotiated rule-making committee established under section 5 of this act.

8. L&I shall provide any necessary documentation to the advisory committee on hospital staffing in advance of the meetings to discuss technical assistance so that the advisory committee may consider areas of needed information.
9. After January 1, 2027, when the forms and rules are developed and effective, the advisory committee on hospital staffing may meet on a quarterly basis as needed, if it is determined by L&I and committee members that such meetings are necessary.
10. The advisory committee on hospital staffing may review and make recommendations on variances or innovative hospital staffing and care delivery models. These recommendations are not final, the final determination of the variance or innovative hospital staffing and care delivery model approval lies solely with L&I.
11. L&I must provide the advisory committee on hospital staffing with data on a quarterly basis related to compliance with this chapter, complaint filing and disposition trends, and reporting metrics on any approved variances and innovative hospital staffing and care delivery models.
12. By December 1, 2023, the Washington State Hospital Association shall survey hospitals in Washington state and report to the advisory committee on hospital staffing on Washington hospitals' existing use of innovative hospital staffing and care delivery models including, but not limited to, integration of patient monitoring equipment, remote patient monitoring, team-based care models, apprenticeship and career ladder programs, and virtual or remote care delivery models, and any challenges with implementing the models.
13. By December 1, 2024, the advisory committee on hospital staffing must review the report prepared by the Washington State Institute for Public Policy as required by section 17 of this act.

Section 7 (new):

1. Requires L&I to review and confirm that all submitted staffing plans are completed in full and by the appropriate deadlines, and requires hospitals to fully complete staffing form in timely manner. Failure to submit staffing plans by the appropriate deadline will result in a violation and \$25,000 fine. Revenue from these fines are deposited into the Supplemental Pension Fund established under RCW 51.44.033.

2. Failure to submit a hospital staffing committee charter to L&I by the deadline will result in a violation and \$25,000 civil penalty. Revenue from these fines are deposited into the Supplemental Pension Fund established under RCW 51.44.033.
3. L&I must post hospital staffing plans, hospital staffing committee charters, and violations of this section on its website.
4. L&I must apply the civil penalties described in this section and enforce any violation of this section using the procedures in sections 12 through 14 of this act and any applicable rules. L&I may also investigate and take appropriate enforcement action under sections 12 through 14 of this act without any complaint if the department discovers information suggesting any violation of this section.

Section 8 amends RCW 49.12.480 by expanding the definition of employee and employer in meal and rest break requirements. Updated requirement are:

1. An employer shall provide employees with meal and rest periods as required by law, subject to the following:
 - (a) Rest periods must be scheduled at any point during each work period during which the employee is required to receive a rest period.
 - (b) Employers must provide employees with uninterrupted meal and rest breaks. This subsection (1)(b) does not apply in the case of an unforeseeable emergent circumstance or an unforeseeable clinical circumstance, as determined by the employee that may lead to a significant adverse effect on the patient's condition, unless the employer or employer's designee determines that the patient may suffer life-threatening adverse effects.
 - (c) For any work period for which an employee is entitled to one or more meal periods and more than one rest period, the employee and the employer may agree that a meal period may be combined with a rest period. This agreement may be revoked at any time by the employee. If the employee is required to remain on duty during the combined meal and rest period, the time shall be paid. If the employee is released from duty for an uninterrupted combined meal and rest period, the time corresponding to the meal period shall be unpaid, but the time corresponding to the rest period shall be paid.

2. The employer shall provide a mechanism to record when an employee misses a meal or rest period and maintain these records.
3. For purposes of this section, the following terms have the following meanings:
 - (a) "Employee" means a person who:
 - i. Is employed by an employer;
 - ii. Is involved in direct patient care activities or clinical services; and
 - iii. Receives an hourly wage or is covered by a collective bargaining agreement.
 - (b) "Employer" means hospitals licensed under chapter 70.41 RCW.

Section 9 amends RCW 49.28.130 by updating definitions of employee, employer, health care facility, overtime, reasonable efforts, and unforeseeable emergent circumstance.

Section 10 amends RCW 49.28.140 by updating prescheduled on-call time and chronic short staffing vacancies.

Section 11 amends RCW 49.28.150 to maintain L&I's requirement to investigate complaints of violations of RCW 49.28.140 as recodified by this act as provided under sections 12 through 14 of this act.

Section 12 (new):

1. L&I will investigate violation complaints. There is a three-year limitation from violation date. Determinations include: Citation and Notice of Assessment, or closure letter. Determinations are to be sent using mail tracking.
2. Closure letters are issued when no violation is found.
3. Violations include civil penalties. Except otherwise in this chapter, the maximum penalty is \$1,000 for each violation up to three violations, then \$2,500 for the fourth violation, and \$5,000 for each subsequent violation.
4. Civil penalties can be waived if L&I determines corrective action was taken to resolve the complaint.

5. Civil penalties are deposited in the Supplemental Pension Fund established under RCW 51.44.033.

Section 13 (new):

1. Citations and Notice of Assessments can be appealed to the director within 30 days of issuance. If no appeal is received within 30 days of issuance, the citation and Notice of Assessment become final and binding without subject to further appeal.
2. Notice of Appeal shall stay the effectiveness of the citation and Notice of Assessment pending final review.
3. If appealed, an administrative law judge from the Office of Administrative Hearings will be assigned by the director, and will be in accordance with Chapter 34.05 RCW. Initial orders can be challenged by filing a petition for administrative review to the director within 30 days of issuance.
4. The director shall issue final orders when appeals on initial orders are received.
5. Orders not appealed within 30 days are final and binding without subject to further appeal.
6. Employer records not provided throughout the investigation may not be used in an appeal.

Section 14 (new) states collections of unpaid citations assessing civil penalties will be pursuant to RCW 49.48.086.

Section 15 (new) states L&I may adopt and implement rules for investigation and enforcement of this chapter including but not limited to retaliation protection.

Section 16 (new) states L&I may contract with consultants to support administration of its responsibilities under this chapter. L&I may not contract with any entity that has financial interests that may create a potential conflict of interest.

Section 17 (new) requires The Washington State Institute for Public Policy to conduct a study on hospital staffing standards for direct care registered nurses and direct care nursing assistants. The

institute must provide a report on its findings to L&I and relevant committees of the legislature by June 30, 2024. In addition to the report, the institute must participate on the negotiated rule-making committee established under section 5 of this act and provide consultation to help inform the negotiated rule-making committee's work.

Section 18 (new) repeals 2017 c 249 s 4 (uncodified).

Section 19 (new) states Sections 5 through 7 and 12 through 17 of this act constitute a new chapter in Title 49 RCW.

Section 20 (new) recodifies RCWs 70.41.410, 70.41.420 and 70.41.425 to the new chapter in Title 49 RCW created in section 19.

Section 21 (new) recodifies RCWs 49.12.480, 49.28.130, 49.28.140 and 49.28.150 to the new chapter in Title 49 RCW created in section 19.

Section 22 (new) makes this act effective July 1, 2024, except for Section 18.

Section 23 (new) makes Section 18 of this act effective June 1, 2023.

II. B – Cash Receipt Impact

Receivables

The proposed bill requires penalties received by L&I to be deposited in the Supplemental Pension Fund, fund 881.

L&I has determined that the intent in section 2 by changing “Nursing and ancillary health care personnel” to “Nursing and patient care staff” in the current bill was to increase the number of employees impacted, the definition of both is the same and therefore is not changing the complaints assumption. The change to “patient care staff” implies that those providing “supportive services to patients” extends beyond those licensed or certified to provide health care

services. This could include, but is not limited to, patient advocates, health coaches, community health workers, clergy, and patient service assistants (those bringing meals & drinks to patients) or staff members who help transport people within the hospital.

- Section 7 allows L&I to issue penalties for hospitals that fail to submit staffing plans and staffing committee charters by the appropriate deadline. L&I does not know how many hospitals would fail to submit hospital staffing plans and staffing committee charters. Therefore, the cash receipt estimate for this section is **indeterminate**.
 - Hospitals failing to submit annual staffing plans or staffing committee charters to L&I are subject to a \$25,000 penalty.
 - Based on the December 2020 [Department of Health's Nurse Staffing Report](#), 16 hospitals failed to provide their annual staffing plans in fiscal year 2020. It is unknown how many hospitals would fail to provide staffing committee charters.
 - At minimum, it is estimated there would be \$400,000 per year. (16 hospitals x \$25,000 per violation for failure to provide annual staffing plans = \$400,000)
- Section 12 allows L&I to issue penalties for safe staffing violations. L&I does not currently have data predicting how many repeat violations there might be associated with this bill. Therefore, the cash receipt estimate for this section is **indeterminate**. At a minimum, using \$1,000 per violation, L&I estimates an annual increase to revenue.
 - 500 safe staffing complaints are anticipated per year (see expenditure section).
 - If the historical 30 percent of complaints results in violations, 150 complaints would result in violations. (500 x 0.30 = 150)
 - The penalty is \$1,000 per violation up to three violations, then increases to \$2,500 for the fourth violation, and \$5,000 for the fifth and each subsequent violation.
 - For this fiscal analysis, it is assumed each violation will result in \$1,000.
 - 150 violations x \$1,000 per violation = \$150,000
- Section 12 allows L&I to issue penalties for meal and rest break violations. L&I does not currently have data predicting how many repeat violations there might be associated with this bill. Therefore, the cash receipt estimate for this section is **indeterminate**. At a minimum, using \$1,000 per violation, L&I estimates an annual increase to revenue.
 - 170 additional meal and rest break complaints are anticipated per year (see expenditure section).

- If the historical 30 percent of complaints results in violations, about 51 complaints would result in violations. ($170 \times 0.30 = \text{about } 51$)
- The penalty is \$1,000 per violation up to three violations, then increases to \$2,500 for the fourth violation, and \$5,000 for the fifth and each subsequent violation.
- For this fiscal analysis, it is assumed each violation will result in \$1,000.
- $51 \text{ violations} \times \$1,000 \text{ per violation} = \$51,000$
- Section 12 allows L&I to issue penalties for mandatory overtime violations. L&I does not currently have data predicting how many repeat violations there might be associated with this bill. Therefore, the cash receipt estimate for this section is **indeterminate**. At a minimum, using \$1,000 per violation, L&I estimates an annual increase to revenue.
 - 15 additional mandatory overtime complaints are anticipated per year (see expenditure section).
 - If the historical 30 percent of complaints results in violations, about 4 complaints would result in violations. ($15 \times 0.30 = \text{about } 4$)
 - The penalty is \$1,000 per violation up to three violations, then increases to \$2,500 for the fourth violation, and \$5,000 for the fifth and each subsequent violation.
 - For this fiscal analysis, it is assumed each violation will result in \$1,000.
 - $4 \text{ violations} \times \$1,000 \text{ per violation} = \$4,000$

II. C – Expenditures

L&I has determined that the intent in section 2 by changing “Nursing and ancillary health care personnel” to “Nursing and patient care staff” in the current bill was to increase the number of employees impacted, the definition of both is the same and therefore is not changing the complaints assumption. The change to “patient care staff” implies that those providing “supportive services to patients” extends beyond those licensed or certified to provide health care services. This could include, but is not limited to, patient advocates, health coaches, community health workers, clergy, and patient service assistants (those bringing meals & drinks to patients) or staff members who help transport people within the hospital.

Appropriated – Operating Costs

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

Staffing – Complaints and Citations

L&I is expecting an increase in complaints and citations as a result of these bills. Included is a matrix to show what the impacts will be depending on the number of complaints and citations.

	High	Medium	Low
Complaints - Staffing	750	500	250
Complaints - Meal/Rest Breaks	255	170	85
Complaints - Mandatory OT	23	15	8
Total Complaints	1,028	685	343
Citations of Complaints	30.0%	30.0%	30.0%
Total Citations	308	206	103
IRA 3 - Complaints Per	60	60	60
IRA 3 - Citations Per	192	192	192
IRA 3 - Complaints	17.0	11.0	6.0
IRA 3 - Citations	2.0	1.0	0.5
IRA 4	2.0	1.0	-
WMS 2	1.0	1.0	-

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

- 11.0 FTEs, Industrial Relations Agent (IRA) 3, permanent. Duties include conducting investigations into reports of improper medical staffing violations, additional meal and rest break violations, additional overtime violations, and staffing committee violations. L&I assumes that the 11 FTEs will phase in based on the effective dates of the bill. Three (3.0) IRA3 FTEs will be needed April 1, 2024, to address overtime complaints and meal and rest break provisions. The remaining 8.0 IRA3 FTEs will be needed April 1, 2025, for complaints related to the staffing plans.
 - L&I anticipates 500 complaints per year related to medical staffing violations.

- Using the December 2020 [Department of Health’s Nurse Staffing Report](#), 104 reports of alleged violations were received by the Department of Health (DOH) who previously had enforcement over nursing safe staffing requirements.
- Based on information provided by DOH, one complaint received by DOH could list dozens of impacted nurses.
- L&I would have to receive complaints from each individual.
- Although the report states that 31 complaints were received, we are using 104 as the starting point based on the changes to current law in this bill and our requirement that we receive complaints from each individual.
- L&I is assuming that the number of complaints was underreported due to the COVID-19 pandemic, and this bill provides broader protections related to nursing safe staffing requirements.
- The report also specifically affects ancillary healthcare workers. Due to this bill’s broadening of protections for “patient care staff”, the increased pool of affected workers could include clinical assistants, patient service assistants, porters, ward clerks, and volunteers. Because of the broadening of affected workers to include not just licensed healthcare professionals, L&I is assuming twice as many complaints as previously estimated in 2022.
- L&I anticipates an additional 169 complaints per year related to meal and rest break violations.
 - In fiscal year 2022, L&I received 1,458 meal and rest break complaints across all sectors.
 - 169 of these complaints were directly related to healthcare workers.
 - It is assumed this number will increase given the expansion and coverage of healthcare workers across all healthcare sectors.
- L&I anticipates an additional 15 complaints per year related to overtime violations.
 - In fiscal year 2022, L&I receive 23 healthcare facility employee overtime complaints.

- Per Employment Security Data, only 104,399 employees are covered under current overtime law protections. This bill would expand that to 172,687. This is about a 65 percent increase. ($172,687 / 104,399 = 1.65$)
 - 15 additional complaints are expected each year based on the assumed 65 percent increase. ($23 \text{ healthcare facility employee overtime complaints} \times 0.65 = 15 \text{ additional complaints}$)
 - Workload indicators show a Protected Leave Specialist can investigate 60 complaints on an annual basis. This bill would add approximately 684 complaints (500 staffing, 169 meal and rest break, and 15 overtime) on an annual basis.
 - 60 complaint investigations per year by an IRA3 would require an additional 11 FTEs. ($684 \text{ complaints} / 60 \text{ investigations per IRA3 per year} = \text{about } 11 \text{ FTEs}$)
 - Meal and rest break provisions and overtime rules take effect July 1, 2024. Therefore, L&I would need to hire and train the 3.0 IRA3s to be ready to begin enforcement and investigations. This necessitates an April 1, 2024, start date.
 - The remaining 8.0 IRA3s will be needed April 1, 2025, for complaints related to the staffing plans.
- 1.0 FTE, Industrial Relations Agent (IRA) 3, permanent, starting April 1, 2024. Duties include issuing citations and notices of assessment pursuant to the provisions in this chapter. This FTE will also be responsible for reviewing information in the Complaint Activity Tracking System; entering citation data for transfer into Accounts Receivable & Collections system; receiving, distributing and processing payments under this chapter; and preparing and transferring case appeals to the Office of Attorney General.
 - L&I anticipates an additional 684 complaints.
 - 205 citations are expected annually. It is assumed 30 percent of 684 complaints will result in a citation. This is based on healthcare overtime cases resulting in a citation 30 percent of the time in fiscal year 2022. ($684 \text{ complaints} \times 0.30 = 205 \text{ citations}$)
 - Workload indicators show an IRA3 can issue about 192 notice of assessments and citations on an annual basis.

- 205 citations per year by an IRA3 would require 1 FTE. (205 citations / 192 citations per IRA3 per year = 1.0 FTE)
- Meal and rest break provisions and overtime rules take effect July 1, 2024. Therefore, L&I would need to hire and train the IRA3 to be ready to begin issuing citations and notice of assessments. This necessitates an April 1, 2024, start date.

Staffing – Hospital Charters and Staffing Plans

- 2.2 FTEs, Industrial Relations Agent (IRA) 2, permanent, starting October 1, 2024. Duties include reviewing hospital charters, hospital staffing plans, providing outreach and guidance through the process, monitoring hospitals for compliance, approving and denying staffing plans, and enforcing violations of this requirement.
 - Currently, the Employment Standards Program does not monitor statewide compliance matters on a regular basis. This statute would require the monitoring of every hospital statewide to ensure timely submission of charters and staffing plans.
 - There are approximately 133 hospitals statewide. This indicates approximately 133 submissions per year requiring tracking, review, education, outreach, and enforcement.
 - Workload indicators show the Protected Leave Specialist can investigate 60 complaints on an annual basis. L&I believes the processing, monitoring, outreach, and approving/denying of staffing plans is comparable workload to investigations.
 - 60 hospital staffing plans per year by an IRA2 would require an additional 2.20 FTEs. (133 hospitals / 60 staffing plans per IRA2 year = 2.20 FTEs)
 - Hospital charters must be submitted to L&I by January 1, 2025. Therefore, L&I would need to hire and train the IRA2s to be ready to review these charters. This necessitates an October 1, 2024 start date.

Staffing – Minimum Staffing Requirements and Variance

- 1.0 FTE, Administrative Regulations Analyst (ARA) 4, temporary, for the period July 1, 2023, through June 30, 2028. Duties include establishing minimum staffing requirements and variance criteria, working with stakeholders, writing policies and rules that might be

controversial, and forms development. Rules related to minimum staffing standards and variance criteria must be in place by January 1, 2027. However, it is anticipated that the ARA4 will be needed beyond this date for additional policy guidance.

- 1.0 FTE, Occupational Nurse Consultant (ONC), permanent, starting July 1, 2023. Duties include establishing minimum staffing requirements and variance criteria; receiving, reviewing, and making approval/denial decisions regarding variance requests. These decisions are specifically tied to a determination of impact to patient and staff health, safety, and welfare. A medically-trained professional will be required to make these determinations. Due to the overall complexity and medical expertise needed to take on this new body of work, this position will also be necessary to oversee and advise on the implementation of all new requirements of the bill, including participating in rulemaking and policy development. The ONC will need to start at the same time as the ARA4 because having a medically-trained professional present during the rulemaking and policy development process will allow L&I to understand the industry-specific concerns of healthcare employers and their medically-trained staff. In addition, the ONC will be critical in the establishment of internal/external processes, external communication and outreach development, and forms development.

Staffing – Administration

- 1.0 FTE, Industrial Relations Agent (IRA) 4, permanent, starting April 1, 2024. Duties include supervising IRA3s, overseeing the complaint intake and assignment process, case review, and training and outreach. L&I currently has one IRA4 responsible for enforcing healthcare overtime. With the addition of 11 IRA3s, an additional IRA4 would be needed.
- 1.0 FTE, WMS2, permanent, starting July 1, 2023. Duties include administering, overseeing, and directing all program activities; providing technical guidance on charters and staffing plans; supporting the negotiated rule-making committee and the hospital staffing advisory committee; advising public entities and higher-level administrative staff

on aspects of the program; making decisions of major significance that may affect the organization as a whole; and supervising one IRA4, one ARA4, and one ONC.

Information Technology (IT)

- 1.0 FTE, IT Business Analyst - Journey, permanent, starting September 1, 2023. Duties include business analyst work supporting the IT project through implementation; managing all new or additional required functionality of the application; documenting customer and staff needs; managing backlogs, testing and quality assurance work, providing training; conducting demonstrations and other work to support customers and staff; implementing all required technology upgrades, evolving security needs, and migrating to the cloud or new legislative requirements. The original scope for the IT estimate in 2022 was focused on modifying an existing system; but with a shift in strategic direction this technology need would be addressed by a Software as a Service (SaaS) solution, Commercial Off the Shelf (COTS), or a Modified Off the Shelf (MOTS) solution. This FTE is needed to support the product management functions of this new system.

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.

This estimate is based on utilizing the Case/Complaint Management currently provided by Athient. A contracted project manager, business analyst and solution architect will be needed to manage the project, lead the requirements elicitation, and work with the L&I IT team to integrate with existing applications. There are three main components needed: managing wage complaints, hospitals providing their charter and a system to track administrative complaints, and accepting hospital staffing plans. This will impact the Front Counter system, Accounts Receivable and Collections (ARC) system, and external Web Services.

A total of \$1.98 million is needed in the 2023-25 biennium for all information technology changes. This includes:

- Contractor costs – \$461,846 is needed for 3,065 contractor hours

- QA – \$271,634
- Software – \$1,150,000 (\$100,000 is needed each fiscal year beginning in fiscal year 2025)

Additional IT costs may be required as the minimum staffing standards are developed and variance process is established.

Rule Making

\$10,000 is needed for four rule making hearings to occur during fiscal year 2024 and \$10,000 is needed for four rule making hearings to occur during fiscal year 2027. The average cost of one rule making hearing is \$2,500. (8 hearings x \$2,500 each = \$20,000)

Facilitation/Consultant Costs

Section 5 specifies L&I may hire a facilitator to chair the negotiated rule-making meetings, impartially assist the members of the committee in conducting discussions and negotiations, and manage the keeping of minutes and records.

- It is assumed that a facilitator will be needed for 10 hours per month, at a cost of \$150 per hour, from January 1, 2025, until January 1, 2027. The 10 hours per month will be spent facilitating negotiated rule-making committee meetings, working with L&I staff, developing agendas, and producing meeting minutes and records of meetings.

Section 16 specifies that L&I may contract with consultants to support administration of its responsibilities under this chapter. L&I may not contract with any entity that has financial interests that may create a potential conflict of interest.

- It is assumed that a healthcare policy consultant will be needed for 10 hours per month, at a cost of \$150 per hour, from July 1, 2023, until July 1, 2028. The 10 hours per month will be spent conducting research, reviewing research produced by the Washington State Institute for Public Policy, and making recommendations to L&I on rules, policies, and overall implementation of the responsibilities under this bill.

The total hours and costs needed for a facilitator and healthcare policy consultant are summarized below:

	Consultant/Facilitation Hours					
	FY24	FY25	FY26	FY27	FY28	FY29
Facilitation Hours	0	60	120	60	0	0
Healthcare Policy Consultant Hours	120	120	120	120	120	0
Total Hours	120	180	240	180	120	0
	Consultant/Facilitation Costs (\$150 per Hour)					
	FY24	FY25	FY26	FY27	FY28	FY29
Facilitation Costs	\$0	\$9,000	\$18,000	\$9,000	\$0	\$0
Healthcare Policy Consultant Costs	\$18,000	\$18,000	\$18,000	\$18,000	\$18,000	\$0
Total Costs	\$18,000	\$27,000	\$36,000	\$27,000	\$18,000	\$0

Attorney General – Legal Services

\$568,000 is needed each year in fiscal years 2025, 2026, and 2027. \$540,000 is needed each year beginning in fiscal year 2028 for legal services. Providing legal advice on complex rule making and handling the anticipated new appeals will require an additional 2.1 Assistant Attorney General (AAG) and 1.05 Legal Assistant (LA) in fiscal years 2025, 2026, and 2027. Beginning in fiscal year 2028, 2.0 FTE AAG and 1.0 FTE LA is required each year.

Administrative Hearings

\$31,000 is needed in fiscal year 2025 (11 appeals) and \$117,000 (40 appeals) is needed for each year after for administrative hearings at the Office of Administrative Hearings.

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	27,000	70,000	105,000	105,000	105,000	99,000
609 Medical Aid	5,000	12,000	19,000	19,000	19,000	18,000
Total:	\$32,000	\$82,000	\$124,000	\$124,000	\$124,000	\$117,000

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 require L&I to create new rules to address definitions, charter requirements, enforcement mechanisms, and staffing standards variance requests.

Individual State Agency Fiscal Note

Bill Number: 5236 S SB	Title: Hospital staffing standards	Agency: 300-Department of Social and Health Services
-------------------------------	---	---

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:

Non-zero but indeterminate cost and/or savings. Please see discussion.

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: 02/08/2023
Agency Preparation: Sara Corbin	Phone: 360-902-8194	Date: 02/21/2023
Agency Approval: Dan Winkley	Phone: 360-902-8236	Date: 02/21/2023
OFM Review: Arnel Blancas	Phone: (360) 000-0000	Date: 03/02/2023

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.

SSB 5236 establishes minimum staffing standards in hospitals, requires hospital staffing committees to develop staffing plans, addresses mandatory overtime and meal/rest break coverages, and provides authority for enforcement.

Section 3 – Amends RCW 70.41.420 – Requires establishment of hospital staffing committee for hospitals by September 1, 2024. Sets forth rules for composition of the committee as well as duties and record requirements. Requirements include submitting an annual staffing plan. Also sets forth what should be considered when developing this plan. Starting July 1, 2025, plans must be submitted to the Department of Labor and Industries (L&I). Committees shall develop process to examine data and review complaints. Committee must also file a charter with L&I.

Section 4 – Amends RCW 70.41.425 – Requires L&I to investigate complaints submitted as violations of RCW 70.41.420. If L&I determines there was a violation, L&I must oversee corrective plan of action and may impose civil penalties.

Section 7 – New Section – Requires L&I to review each hospital staffing plan for compliance with statute. L&I will monitor for violations and assess civil penalties.

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.

Indeterminate federal cash receipts funded by federal Title XIX-Grants to States for Medical Assistance funds are anticipated.

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.

5236 SSB will have an indeterminate fiscal impact to the Department of Social and Health Services (DSHS), Behavioral Health Administration (BHA). DSHS BHA does not assume that we would need to meet the staffing ratio requirements of this bill.

Indeterminate Fiscal Impacts

Without having an approved staffing plan DSHS BHA is unable to determine if additional staffing would be needed. If additional staffing is needed as part of the staffing plan funding will need be requested before implementation.

No costs are assumed or illustrated for any associated fine costs (section 3, 4, and 6) that can be imposed upon BHA.

Determinate Fiscal Impact

Nursing Committee Impacts: Section 3 states that at least 50% of the members of the hospital staffing committee shall be nursing and ancillary health care personnel, who are nonsupervisory and nonmanagerial. In addition, Section 3 (1)(b) states participation in the hospital staffing committee by a hospital employee shall be on scheduled work time and compensated at the appropriate rate of pay. Hospital staffing committee members shall be relieved of all other work duties during meetings of the committee. Additional staffing relief must be provided to ensure committee members are able to attend hospital staffing committee meetings. This requirement will result in backfill costs for staff attending staffing committee meetings, and any other duties related to the staffing committee that may be required.

Cost impacts assume backfill will be needed 8 hours per month for a total of 96 hours per year for direct care staff

representatives from each ward/cottage. The size of the committee is indeterminate; however, BHA assumes the following committee members, at a minimum participate: Chief Financial Officer, Chief Nursing Officer, and one representative per ward /cottage beginning September 1, 2024.

FY2024 – No cost

FY2025

ESH – 0.3 FTE’s and \$33,000 (\$28,000 GF-State)

WSH – 0.6 FTE’s and \$63,000 GF-State

CSTC – 0.1 FTE’s and \$18,000 (\$9,000 GF-State)

Total Impact: 1.0 FTE’s and \$114,000 (\$100,000 GF-State)

FY2026 & Ongoing

ESH – 0.4 FTE’s and \$40,000 (\$34,000 GF-State)

WSH – 0.8 FTE’s and \$76,000 GF-State

CSTC – 0.2 FTE’s and \$22,000 (\$11,000 GF-State)

Total Impact: 1.4 FTE’s and \$138,000 (\$121,000 GF-State)

Information Technology (IT) Impacts

Two additional FTE’s are required to update and support the current IT scheduling system; 1.0 FTE IT Project Management Senior and 1.0 FTE IT Application Development Senior.

FY2024 - 2.0 FTE’s and \$358,000

FY2025 - 2.0 FTE’s and \$354,000

2023-25 Total Impact 2.0 FTE’s & \$712,000 GF-State

FY2026 - 2.0 FTE’s and \$354,000

FY2027 - 2.0 FTE’s and \$354,000

2025-27 Total Impact 2.0 FTE’s & \$708,000 GF-State

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Non-zero but indeterminate cost and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

Non-zero but indeterminate cost and/or savings. Please see discussion.

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

NONE

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.

Individual State Agency Fiscal Note

Bill Number: 5236 S SB	Title: Hospital staffing standards	Agency: 303-Department of Health
-------------------------------	---	---

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	0.0	0.1	0.1	0.1	0.0
Account					
General Fund-Private/Local 001 -7	2,000	10,000	12,000	26,000	0
Total \$	2,000	10,000	12,000	26,000	0

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: 02/08/2023
Agency Preparation: Donna Compton	Phone: 360-236-4538	Date: 02/14/2023
Agency Approval: Kristin Bettridge	Phone: 3607911657	Date: 02/14/2023
OFM Review: Breann Boggs	Phone: (360) 485-5716	Date: 02/16/2023

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.

This fiscal note has changed from the previous fiscal note on 5236 SB. This substitute creates the negotiated rulemaking committee and directs it to adopt rules that include nurse staffing ratios, requirements for variances, innovative hospital staffing and care delivery models, and other rules required to adopt this bill. It establishes an advisory committee on hospital staffing to advise the Department of Labor and Industries on its development of the uniform hospital staffing plan, and it moves the effective date for all sections, except for section 18, from January 1, 2024 to July 1, 2024.

This bill amends the existing hospital nurse staffing statute and expands the requirements to include “patient care staff”; who are staff providing direct care or support services to patients. It specifies roles, responsibilities, and processes of the hospital’s staffing committees. This bill also transfers the enforcement of the hospital staffing law from the Department of Health to the Department of Labor and Industries.

Section 2(1): Defines “department” as the Department of Labor and Industries for use in RCW 70.41.420 (Nurse Staffing Committee) and 70.41.425 (Nurse Staffing – Department Investigations). The change in definition transfers the authority for investigation and enforcement of this law, as outlined in Section 4 (1)(a) and Section 4(2), from the Department of Health to the Department of Labor and Industries.

Section 5(8)(c)(iv): Requires a representative from the Department of Health to serve as a nonvoting ex officio member on the negotiated rulemaking committee.

Section 6 (2)(c): Requires a representative from the Department of Health to serve as a nonvoting ex officio member for the advisory committee on hospital staffing.

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.

Section 2(1): Current law, RCW 43.70.250 (License fees for professions, occupations, and businesses), requires the Department of Health to charge a fee to generate sufficient revenue to fully support the costs of administering its programs. The Department of Health collects a fee of \$220 per bed to support all work related to Acute Hospitals under WAC 426-320-199 (Fees) including credentialing, programmatic work, investigations and inspections, etc. The Department of Health did not increase fees as a result of the original legislation, nor did it impose a civil penalty while it had authority, and therefore does not expect a change to cash receipts.

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.

Section 2(1): Defines “department” as the Department of Labor and Industries, transferring the authority for investigation and enforcement of this law, as outlined in Section 4(1)(a) and Section 4(2), from the Department of Health to the Department of Labor and Industries.

The Department of Health received significantly more nurse staffing complaints than originally expected. Currently, the Department of Health has 15 nurse staffing investigations and 2 complaints awaiting assessment to determine if an investigation is needed. These investigations typically take 104 to 282 days to close. The Department of Health will continue to receive complaints until the Department of Labor and Industries assumes responsibility of the work on July 1, 2024. Complaints received prior to the effective date of this act would still require time and resources to investigate and close

which the Department of Health believes can be done in fiscal year 2025. However, if enforcement action became necessary, costs could extend into fiscal year 2026. Based on these assumptions, the Department of Health does not expect a reduction in expenditures as a result of this bill.

Section 5(8)(c)(iv): Requires a representative from the Department of Health to serve as a nonvoting ex officio member on the negotiated rulemaking committee. The rulemaking committee must convene January 1, 2025, and rules must be adopted by January 1, 2027. The department estimates a nursing consultation advisor would provide 8 hours of committee participation per month for the duration of the rulemaking process.

FY 2025 costs will be and \$8,000 (GF-L).
 FY 2026 costs will be 0.1 FTE and \$14,000 (GF-L).
 FY 2027 costs will be and \$8,000 (GF-L).

Section 6 (2)(c): Requires a representative from the Department of Health to serve as a nonvoting ex officio member for the advisory committee on hospital staffing. The advisory committee must convene September 1, 2023 and is directed to meet once per month until the uniform hospital staffing plan is developed. After January 1, 2027 the advisory committee on hospital staffing may meet on a quarterly basis. The department estimates a nursing consultation advisor would provide 2 hours of committee participation per month for the duration of the creation of the uniform hospital staffing plan. Ongoing support for quarterly meetings would be accomplished within their normal workload.

FY 2024 through FY 2027, costs will be \$2,000 (GF-L).

Total costs to implement this bill are:

FY 2024 – \$2,000 (GF-L)
 FY 2025 – 0.1 FTE and \$10,000 (GF-L).
 FY 2026 – 0.1 FTE and \$16,000 (GF-L).
 FY 2027 – 0.1 FTE and \$10,000 (GF-L).

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-7	General Fund	Private/Local	2,000	10,000	12,000	26,000	0
Total \$			2,000	10,000	12,000	26,000	0

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.1	0.1	0.1	
A-Salaries and Wages	2,000	8,000	10,000	21,000	
B-Employee Benefits		1,000	1,000	4,000	
E-Goods and Other Services		1,000	1,000	1,000	
Total \$	2,000	10,000	12,000	26,000	0

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
NURSING CONSULTATION ADVISOR	147,360		0.1	0.1	0.1	
Total FTEs			0.1	0.1	0.1	0.0

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.

None

Individual State Agency Fiscal Note

Bill Number: 5236 S SB	Title: Hospital staffing standards	Agency: 310-Department of Corrections
-------------------------------	---	--

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

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: 02/08/2023
Agency Preparation: Scherry Sinclair	Phone: (360) 725-8428	Date: 02/13/2023
Agency Approval: Ronell Witt	Phone: (360) 725-8428	Date: 02/13/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	Date: 02/14/2023

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.

An act relating to improving nurse and health care worker safety and patient care by establishing minimum staffing standards in hospitals, requiring hospital staffing committees to develop staffing plans, addressing mandatory overtime and meal and rest breaks, and providing for enforcement.

Amended with updates as follows:

Requires the Department of Labor and Industries (L&I) to regulate and enforce hospital staffing committees, staffing plans, and minimum staffing standards.

Requires L&I to adopt minimum staffing standards for direct care registered nurses and direct care nursing assistant-certified by rule through negotiated rulemaking.

Amends the meal and rest breaks and overtime provisions for health care employees.

The following remains the same:

Section 8(1)(c) amends RCW 49.12.480 and adds that for any work period for which an employee is entitled to one or more meal periods and more than one rest period, the employee and the employer may agree that a meal period may be combined with a rest period. Current CBA language for represented health care workers states that rest periods and meal periods will not be combined.

Section 9(1)(a)(i) outlines the definitions that apply throughout and RCW 49.28.14 and 49.28.150. This act applies to an employee who is employed by a health care facility as defined in subsection (3)(a)(v) and is owned and operated by the Department of Corrections (DOC).

Section 10 amends RCW 49.28.140 and outlines the cases when an employee of a health care facility may and may not work overtime.

Section 11 is amended to read that the Department of Labor and Industries (L&I) shall investigate complaints of violations of RCW 49.28.140.

Section 12 states that if L&I finds a violation of this chapter, the department shall order the employer to pay the department a civil penalty. The maximum penalty is \$1,000 for each violation up to three violations. If there are four or more violations of this chapter the employer is subject to a civil penalty of \$2,500 for the fourth violation, and \$5,000 for each subsequent violation. Each subsequent violation is appealable.

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.

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.

DOC inpatient units (IPU) are not considered are “hospitals” which are regulated by Department of Health (DOH) under

RCW 70.41. In practice, DOH has not regulated DOC health care facilities as hospitals, DOC IPUs are not set up in the same way or provide anywhere near the level and breadth of care provided in hospitals, and elsewhere in the RCWs (see Section 8 of the bill, RCW 49.28.130 (3)(a) the Legislature defined “health care facilities” to include hospitals licensed under RCW 70.41 and facilities owned and operated by DOC, suggesting DOC facilities are not hospitals. For these reasons, Sections 1-7 of this bill do not apply to DOC because DOC does not operate “hospitals” as defined under RCW 70.41, therefore, no fiscal impact.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

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

NONE

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.

Individual State Agency Fiscal Note

Bill Number: 5236 S SB	Title: Hospital staffing standards	Agency: 360-University of Washington
-------------------------------	---	---

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	0.0	43.9	22.0	44.3	44.3
Account					
University of Washington Hospital-Non-Appropriated 505 -6	0	8,035,563	8,035,563	16,194,072	16,194,072
Total \$	0	8,035,563	8,035,563	16,194,072	16,194,072

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

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: 02/08/2023
Agency Preparation: Charlotte Shannon	Phone: 2066858868	Date: 02/10/2023
Agency Approval: Charlotte Shannon	Phone: 2066858868	Date: 02/10/2023
OFM Review: Ramona Nabors	Phone: (360) 742-8948	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.

The Substitute SB 5236 makes the following changes:

Sec. 2 adds a definition for “reasonable efforts” and "unforeseeable emergent circumstance".

Sec. 3 adds to the requirements of what the staffing committee must file with the Department of Labor and Industries, including adding a process for electing cochairs and their terms. It also adds that the Department of Labor and Industries must provide technical assistance to hospital staffing committees to assist with compliance with this section.

Sec. 4 adds the Department of Labor and Industries may investigate and take appropriate enforcement action without any complaint if the department discovers information suggesting any violation of RCW 70.41.420.

Sec. 5 adds a new subsection regarding rule making, and directs the Department of Labor and Industries to establish a negotiated rule making committee, sets membership, which may include a representative from UW Medicine from both administration and frontline staff, and directs their work.

Sec. 6 directs the Department of Labor and Industries to establish an advisory committee on hospital staffing by Sept. 1, 2023, which may have representatives from UW Medicine from both administration and frontline staff, and directs their work.

Sec. 7 adds the Department of Labor and Industries must apply the civil penalties described in this section and enforce any violation of this section using the procedures in sections 12 through 14 of this act and any applicable rules. The department may also investigate and take appropriate enforcement action under sections 12 through 14 of this act without any complaint if the department discovers information suggesting any violation of this section.

Sec. 9 adds to the definition of overtime to mean any of the following:

- (a) Hours worked in excess of an agreed upon, predetermined, regularly scheduled shift
- (b) Hours worked in excess of 12 hours in a 24-hour period; or
- (c) Hours worked in excess of 80 hours in a consecutive 14-day period.

Sec. 16 directs the Washington State Institute for Public Policy to conduct a study on hospital staffing standards for direct care registered nurses and direct care nursing assistants.

Sec. 22 delays the effective date to July 1, 2024 from January 1, 2024, except where specific sections have their own effective dates.

UW CHANGES TO FISCAL IMPACTS RESULTING FROM THE SUBSTITUTE BILL:

- The determinate fiscal impacts for mandatory overtime and pre-scheduled on-call now take effect July 1, 2024, and have no fiscal impacts in FY24. The on-going impacts in FY25+ remain the same.
- The remainder of the determinate fiscal impacts displayed in the expenditures are not impacted by the changes to the bill, given those sections have their own effective dates.

Overall SSB 5236 establishes minimum hospital nurse-to-patient staffing standards, expands break and overtime laws for certain health care workers, and requires hospital staffing committees to create staffing plans. The bill also creates an enforcement structure for these new standards, including monetary penalties for violations.

Section 2. Definitions

This section broadens the staff included in the current staffing committee law from nurses to all direct patient care staff. Direct care patient staff is defined as a “person who is providing direct care or supportive services to patients” but is not a physician or an advanced registered nurse practitioner. This section also adds a definition of “reasonable efforts” to obtain staffing coverage and a definition of “unforeseeable emergent circumstance.”

Section 3. Staffing Committee

This section makes changes to existing nurse staffing committee laws. Major changes include:

- Broadening the committee to include all patient care staff, changing the appointment process to the committee, eliminating the hospital’s ability to reject a staffing plan, and creating new requirements for the CEO to report to the committee
- Requiring staffing relief for committee attendees
- Requiring a uniform form for submission of staffing plans, limiting exemptions to staff assignments required by staffing plans, and modifying existing factors to be considered in developing staffing plans
- Removing the limitation on those eligible to submit complaints to the staffing committee by including patient care staff, collective bargaining representatives, patients, and other individuals. Requires staffing committee to review all complaints submitted
- Requiring the staffing committee to file a charter with the Department of Labor & Industries, including information on roles and responsibilities, committee processes, standards, and policies

Section 4. L&I Investigations

This section broadens the circumstances under which complaints can be filed and increases fines for staffing plan variations from \$100 per day to \$5,000 per day.

Section 5. Minimum Staffing Standards

This section directs the Department of Labor & Industries to adopt and implement rules establishing minimum staffing standards for direct patient care staff by 1/1/2027, and requires hospital compliance by 7/1/2027. The Department of Labor & Industries is also required to establish a process for hospitals to request a variance from minimum staffing standards.

Section 6. Enforcement of Staffing Plans and Committee Charters

Hospitals must submit staffing plans to the Department of Labor & Industries, which must review plans to ensure completeness and timeliness. Penalties of \$25,000 may be levied on hospitals that fail to timely submit a complete staffing plan or charter.

Section 7. Meal and Rest Breaks

This section reduces existing exceptions to meal and rest break requirements, expands the categories of staff they apply to, and permits employees to bundle meal and rest breaks upon agreement with their supervisor.

Section 8. Mandatory Overtime Definitions

This section expands mandatory overtime law to any health care facility employee involved in direct patient care activities or clinical services who receives an hourly wage or is covered by a collective bargaining agreement. It also further limits the “reasonable efforts” exemption and exemptions for an “unforeseeable emergent circumstance.”

Section 9. Mandatory Overtime and Pre-Scheduled On-Call

This section creates a cap of 60 hours per month per employee for mandatory pre-scheduled on-call that leads to mandatory overtime, prohibits an employer from using pre-scheduled on-call for a non-emergent patient procedure, and prohibits the employer from using a “reasonable efforts” exemption for more than 3 months or for frequently recurring staff shortages.

Section 10. Investigation of Mandatory Overtime Law

This section requires the Department of Labor & Industries to investigate complaints of violations of mandatory overtime law under a process that is established in Sections 11 through 13.

Section 11. Enforcement

This section requires the Department of Labor & Industries to investigate complaints filed within 3 years of alleged violation and to issue a citation or closure within 90 days of the complaint being filed or provide written notice with good cause for an extension. The existing maximum civil penalty for mandatory overtime (\$1,000 for each violation up to three violations, \$2,500 for the fourth violation, and \$5,000 for each subsequent violation) shall also be applied to violations of this chapter, unless other penalties are noted.

Section 12. Appeal of Citations Under This Chapter

Appeals may be filed by aggrieved parties within 30 days. An administrative law judge will conduct a hearing.

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.

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.

In order to provide clear and concise analysis of the fiscal impacts of the sections noted above, the UW has grouped the impacts by area rather than section, given many of these cost drivers span multiple sections of the legislation.

Staffing Committee

Increased expenditures are anticipated with the proposed changes to the staffing committee. The committee is expanded to include additional patient care providers beyond nurses, which will expand the size of the committee, increasing the number of participants and requiring additional backfill for these participants while they are attending to committee duties and unable to care for patients. Additional responsibilities for administrative staff include reviewing and responding to all complaints (which will increase with this bill, which broadens the number of eligible parties to submit complaints and increases the circumstances under which they can do so), providing twice-yearly CEO reports to the staffing committee, and development and filing with the Department of Labor & Industries of a Committee Charter.

To estimate the impact of these new provisions, our model includes incremental increased hours from existing leadership and administrative staff, as well as hours from additional staff newly participating in the committee, which are listed in the expenditures tables. These include 0 additional FTE in FY24 due to an implementation date for this Section of September 1, 2024 (FY25), 1.21 FTE in FY25, and 1.58 FTE in FY26 and ongoing, and impacts 12 different job classes. The total costs for this are \$195,941 in FY25 and \$257,415 in FY26 and ongoing.

TOTAL DETERMINANT FISCAL IMPACTS FOR STAFFING COMMITTEE:

FY25: \$195,941

FY26 and ongoing: \$257,415

Citations and Fines

New or increased citations and fines are included in several places in this legislation, including:

- Daily fines of \$5,000 until staffing plan is adopted by consensus of the committee
- Increased fines for staffing plan variations from \$100/day to \$5,000/day until the hospital submits an approved corrective action plan to the department and follows it for 90 days. The daily fines must accumulate until the 90-day timeframe has passed (which would be a minimum of \$450,000).
- Fines of \$25,000 for failure to submit a complete staffing plan or charter on time.
- For every violation of the chapter, unless otherwise noted, including violations of meal and rest breaks and mandatory

overtime laws, the maximum penalty is \$1,000 for each violation up to three violations, \$2,500 for the fourth violation, and \$5,000 for each subsequent violation. These fines currently exist for mandatory overtime citations, however, under this proposed language they will apply to a broader group of employees.

In addition to these new fines, the legislation would remove any limitation on who could file a complaint and increase the number of employees to whom these standards apply.

TOTAL FISCAL IMPACTS FOR CITATIONS AND FINES:

These additional fines are significant; however, the total impact is indeterminate given our inability to predict with accuracy the frequency of citations and fines under the new proposed regulatory structure.

Minimum Staffing Standards

This legislation requires the Department of Labor & Industries to establish via rulemaking new minimum staffing standards, to become effective by July 1, 2027. An estimate of the impact of the staffing standards is not possible without knowing the prescribed staff to patient ratios. However, any ratio designed to increase the ratio of patient care staff to patients will increase labor costs accordingly. To estimate these increased costs, one should include the salary and benefits of additional patient care staff required due to changes in the ratios, the impact of adding additional break nurses and providers related to new meal and rest break provisions in the legislation, and the cost of additional training and onboarding – both for trainers and trainees.

We expect significant impacts due to high and increasing labor costs. At the time of development of these estimates, labor costs are expected to increase 7.0% from FY22 to FY23, and 13.8% from FY23 to FY24 and an additional 13.8% from FY24 to FY25.

TOTAL FISCAL IMPACTS FOR MINIMUM STAFFING STANDARDS:

Indeterminate but significant.

Mandatory Overtime

Mandatory overtime prohibitions will be expanded to additional classes of employees under this legislation, and this legislation narrows exemptions under which hospitals can use mandatory overtime. This will increase costs as hospitals will be required to hire additional staff. The impact of these changes is indeterminate. We are unable to estimate the impact of these new provisions given our current data do not differentiate between mandatory and voluntary overtime.

TOTAL FISCAL IMPACTS OF MANDATORY OVERTIME

Indeterminate but significant.

Mandatory Prescheduled On-Call

The legislation also limits overtime due to mandatory prescheduled on-call time of more than 60 hours per month per employee. This change would require UWMC and Harborview to hire additional staff to ensure sufficient staff coverage. To estimate the impact of this change, we used payroll data for all job classes with prescheduled on-call hours. We averaged the number of mandatory prescheduled on-call hours for groups of staff sharing a job title and department by number of employees on-call each month. If this average was above 60, we calculated how many additional FTE would be needed to keep that department below an average of 60. This is likely an underestimate, given that within a department there may be differing specializations among individuals within a job class, requiring additional FTE to ensure that no employee exceeds the 60-hour limit. At UWMC, the cost is estimated to be \$5.4 million (28 FTE) in FY25 and ongoing. The estimated cost at Harborview is \$2.4 million (14 FTE) in FY25 and ongoing.

TOTAL FISCAL IMPACTS OF MANDATORY PRESCHEDULED ON-CALL:

FY25 and ongoing: \$7,801,730

Appeals

This legislation creates a right to appeal Department of Labor & Industries rulings on complaints, creating a new process for review by an administrative law judge before an appeal to a civil judge can be made. While not possible to predict how many cases will be appealed, each appeal will come with significant potential additional legal costs for UWMC and Harborview attributable to this additional process step of a hearing by an administrative law judge. Defense costs, which are indeterminate, include witness interviews, document review, site visits, discussions and meetings with L&I investigators, drafting of all relevant defense materials, hearing preparation and appearance, and other related necessary defense work. An estimate of reasonable hourly attorneys' fees are: partner \$420, associate attorney \$289, and paralegal \$236.

TOTAL FISCAL IMPACTS FOR APPEALS:
Indeterminate but significant.

Labor Relations

The UW estimates that a Labor Relations Negotiator (\$115,000 annual salary, benefits rate of 31.8%) would spend at least 10 hours per week (0.25 FTE) to hear and respond to Union grievances regarding nurse staffing concerns, attend multi-day arbitrations and mediations relating to those grievances, and participate in joint labor management committees to discuss staffing levels at the hospital.

TOTAL FISCAL IMPACTS OF LABOR RELATIONS:
FY25 and ongoing: \$37,893

TOTAL FISCAL IMPACTS FOR SB 5236:

DETERMINE:

There are significant determinate impacts driven by expansion and changes to staffing committees and changes to mandatory prescheduled on-call requirements.

FY25: \$8,035,563
FY26 and ongoing: \$8,097,036

INDETERMINATE:

There are significant indeterminate impacts driven by:

- New minimum staffing standards
- New citations and fines
- Changes to mandatory overtime provisions
- Changes to appeals

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
505-6	University of Washington Hospital	Non-Appropriated	0	8,035,563	8,035,563	16,194,072	16,194,072
Total \$			0	8,035,563	8,035,563	16,194,072	16,194,072

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		43.9	22.0	44.3	44.3
A-Salaries and Wages		5,761,847	5,761,847	11,611,828	11,611,828
B-Employee Benefits		2,273,716	2,273,716	4,582,244	4,582,244
C-Professional Service Contracts					
E-Goods and Other Services					
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	8,035,563	8,035,563	16,194,072	16,194,072

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

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 Assistant	48,256		0.0	0.0	0.0	0.0
ARNP	172,879		0.7	0.3	0.7	0.7
Biomed E Tech	108,321		0.2	0.1	0.2	0.2
Cardiac Sonographer	69,833		0.5	0.3	0.5	0.5
Cardiac Tech	134,341		3.6	1.8	3.6	3.6
Computer Tech	105,649		0.1	0.0	0.1	0.1
Diagnostic Medical Sonographer	121,193		2.9	1.4	2.9	2.9
E Neuro Diag Tech	114,139		2.4	1.2	2.4	2.4
Echocardiographer	122,963		0.6	0.3	0.6	0.6
Electro Tech	98,169		0.8	0.4	0.8	0.8
HA/PCT/CNA/MA	60,032		2.6	1.3	2.7	2.7
Hospital Administrator	195,520		0.1	0.1	0.2	0.2
Imaging Tech	130,924		6.9	3.5	6.9	6.9
Instrument Tech	83,224		0.0	0.0	0.0	0.0
Interventional Tech	160,267		0.5	0.2	0.5	0.5
Labor Relations Negotiator	115,000		0.3	0.1	0.3	0.3
Manager	139,797		0.4	0.2	0.6	0.6
MHP	92,206		0.1	0.0	0.1	0.1
Occupational Therapist	94,374		0.1	0.0	0.1	0.1
Orthotics	96,587		0.0	0.0	0.0	0.0
PCC	78,650		2.2	1.1	2.2	2.2
Pharmacist	162,327		0.5	0.3	0.5	0.5
Physical Therapist	133,490		0.1	0.0	0.1	0.1
PSS	61,636		0.8	0.4	0.8	0.8
Rad Therapy Tech	102,931		0.3	0.1	0.3	0.3
Radiation Therapy Dosimetrist	120,696		0.1	0.0	0.1	0.1
Respiratory Care	141,966		1.3	0.6	1.3	1.3
RN	158,191		15.6	7.8	15.6	15.6
Social Worker	94,026		0.1	0.0	0.1	0.1
Specimen Proc	78,598		0.0	0.0	0.0	0.0
Surg Tech	81,244		0.2	0.1	0.2	0.2
Vascular Sono	148,254		0.5	0.2	0.5	0.5
Total FTEs			43.9	22.1	44.3	44.3

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.

Individual State Agency Fiscal Note

Bill Number: 5236 S SB	Title: Hospital staffing standards	Agency: 376-The Evergreen State College
-------------------------------	---	--

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	1.0	0.0	0.5	0.1	0.0
Account					
General Fund-State 001-1	163,083	5,792	168,875	15,872	0
Total \$	163,083	5,792	168,875	15,872	0

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: 02/08/2023
Agency Preparation: Catherine Nicolai	Phone: (360) 664-9087	Date: 02/10/2023
Agency Approval: Dane Apalategui	Phone: 360-867-6517	Date: 02/10/2023
OFM Review: Ramona Nabors	Phone: (360) 742-8948	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.

Section 5(8)(a) of SSB 5236 Directs the Department of Labor and Industries to "convene a group of affected stakeholders to ensure balanced representation of individuals who have direct expertise in hospital staffing and working conditions and should reflect a diversity of hospital settings." Section 5(8)(c)(v) directs a representative from the Washington State Institute for Public Policy (WSIPP) to serve on the group "as a nonvoting ex officio member."

Sec. 17 of SSB 5236 directs WSIPP to "conduct a study on hospital staffing standards for direct care registered nurses and direct care nursing assistants."

WSIPP "must review current and historical staffing plans filed with the Department of Health under Chapter 70.41 RCW and describe

- (a) Timeliness and completeness of filed forms;
- (b) Format of filed forms;
- (c) Staffing ratios related to the maximum number of patients to which a direct care nursing or nursing assistant may be assigned;
- (d) Descriptive statistics on submissions by hospital unit type;
- (e) Trends over time, if any;
- (f) Legal minimum staffing standards for registered nurses and nursing assistants in other jurisdictions; and
- (g) Relevant professional association guidance, recommendations or best practices."

The report is due to L&I and the legislature by June 30, 2024.

Sec 17(3) states "in addition to the report, the institute must participate on the negotiated rule-making committee established under Section 5 of this act and provide consultation to help inform the negotiated rulemaking committee's work."

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.

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.

Our cost estimate assumes that data will be provided by the Department of Health in a timely manner and WSIPP's participation in the workgroup outlined in Sec. 5 would end in January 2027.

In order to complete the assignment outlined in Sec. 17, WSIPP would assign the following resources:

FY24:

- 0.83 FTE Researcher time for scoping, preparing the data request, literature review, analyzing the data, and writing the report.
- 0.12 FTE Methods Review to develop a study plan and conduct a methodological review.
- 0.06 FTE Editing/Publication for report publication.

In order to complete the assignment outlined in Section 5(8)(c)(v), WSIPP would assign the following resources:

FY25:

- 0.04 FTE Researcher to serve on the workgroup.

FY26:
-0.06 FTE Researcher to serve on the workgroup.

FY27:
-0.04 FTE Researcher to serve on the workgroup.

*Goods and other services include a 12% indirect rate for The Evergreen State College.

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	163,083	5,792	168,875	15,872	0
Total \$			163,083	5,792	168,875	15,872	0

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.0	0.0	0.5	0.1	
A-Salaries and Wages	113,874	4,040	117,914	11,071	
B-Employee Benefits	31,736	1,131	32,867	3,100	
C-Professional Service Contracts					
E-Goods and Other Services	17,473	621	18,094	1,701	
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 \$	163,083	5,792	168,875	15,872	0

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
Editing/Publication	107,544	0.1		0.0		
Methods Review	120,984	0.1		0.1		
Researcher	107,544	0.8	0.0	0.4	0.1	
Total FTEs		1.0	0.0	0.5	0.1	0.0

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.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5236 S SB

Title: Hospital staffing standards

Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- Cities:
- Counties: Potential employee participation in the negotiated rule-making committee
- Special Districts: Indeterminate but likely significant expenditures for public hospital districts due to additional administrative and planning work, hiring new staff, potential fines, and potential litigation costs; potential employee participation in the negotiated rule-making committee
- Specific jurisdictions only:
- Variance occurs due to:

Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time: Amount of time required to develop staffing plan and charter; number of new staff that would need to be hired and their respective hourly pay; signing bonus amounts; number of violations or instances of noncompliance with this chapter; number of cases requiring litigation; cost of participating in negotiated rule-making committee

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Part III: Preparation and Approval

Fiscal Note Analyst: Brandon Rountree	Phone: (360) 999-7103	Date: 02/15/2023
Leg. Committee Contact: Jarrett Sacks	Phone: 360-786-7448	Date: 02/08/2023
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 02/15/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 02/15/2023

Part IV: Analysis

A. SUMMARY OF BILL

Description of the bill with an emphasis on how it impacts local government.

CHANGES BETWEEN THIS BILL VERSION AND PREVIOUS BILL VERSION:

Overview: The first substitution version of the bill made three primary changes from the original version:

- Expanded and clarified some section term definitions
- Clarified the authorities given to the department by the bill (Sec. 4 (1) (b))
- Added a sub-section which directed the department to create a negotiated rule-making committee (Sec. 5 (8))

SUMMARY OF CURRENT BILL VERSION:

Sec. 2: (8) (b) Establishes that “reasonable efforts” does not mean circumstances when an employer is short staffed with vacancies for longer than 90 days or frequently absences.

(10) (b) Establishes that “unforeseeable emergent circumstance” does not mean a declared national, state, or municipal emergency or when a health care facility disaster plan is activated, if the events persist longer than 90 days.

Sec. 3: (6) (a) Changes “consensus” to “50 percent plus one vote”.

(9) Adds “or otherwise take any adverse action against” to the hospital retaliation clause.

(11) (a) Sets a due date of January 1, 2025 for hospital staffing committees to submit their charter to the department and adds “a process for electing co-chairs and their terms” to the list of charter requirements.

Sec. 4: (1) (b) Authorizes the department to investigate and take enforcement action without any complaint if the department finds information suggesting any violation of RCW 70.41.420.

Sec. 5: (1) (h) (ii) (B) Establishes that “unforeseeable emergent circumstance” does not mean a declared national, state, or municipal emergency or when a health care facility disaster plan is activated, if the events persist longer than 90 days.

Sec. 6: Authorizes and directs the department to convene a group of affected stakeholders to serve as the negotiated rule-making committee.

(c) (i) Six of the members will be selected from a list of nominees submitted by the Washington state hospital association.

(c) (ii) Six of the members will be selected from a list of nominees submitted by collective bargaining representative

Sec. 7: (4) Authorizes the department to apply civil penalties, investigate and take enforcement action using the procedures in sections 12 through 14.

Sec. 9: (7) (b) Establishes that “unforeseeable emergent circumstance” does not mean a declared national, state, or municipal emergency or when a health care facility disaster plan is activated, if the events persist longer than 90 days.

B. SUMMARY OF EXPENDITURE IMPACTS

Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.

CHANGES BETWEEN THIS BILL VERSION AND PREVIOUS BILL VERSION

This bill would still have an indeterminate impact on local government expenditures. The only change which would further impact local government expenditures is the establishment of a negotiated rule-making committee (Sec. 5 (8)). If a public hospital or local government employee was to be selected to serve on the committee, the cost of covering their participation on the committee would fall on the hospital or local government. However, there is no way to project the cost of participation because the amount work hours need to participate or the role and salary of the individuals participating are unknown.

C. SUMMARY OF REVENUE IMPACTS

Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.

CHANGES BETWEEN THIS BILL VERSION AND PREVIOUS BILL VERSION

This bill would still have no impact on local government revenues. There were no changes made to the bill which would increase local government revenue.

Sources:

2SHB 1868 Local Government Fiscal Note (2022)

SB 5236 Local Government Fiscal Note (2023)

HB 1868 Bill Analysis 2022

Washington State Hospital Association

Association of Washington Cities 2022 Salary Survey

Washington State Hospital Association