

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5524 S SB	<b>Title:</b> Industrial insurance/duties
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## Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.								
<b>Total \$</b>	0	0	0	0	0	0	0	0	0

## 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
Board of Industrial Insurance Appeals	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Labor and Industries	1.1	0	0	285,000	.0	0	0	0	.0	0	0	0
<b>Total \$</b>	1.1	0	0	285,000	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 Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Board of Industrial Insurance Appeals	.0	0	0	.0	0	0	.0	0	0
Department of Labor and Industries	.0	0	0	.0	0	0	.0	0	0
<b>Total \$</b>	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

NONE

<b>Prepared by:</b> Anna Minor, OFM	<b>Phone:</b> (360) 790-2951	<b>Date Published:</b> Final 3/ 8/2023
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5524 S SB	<b>Title:</b> Industrial insurance/duties	<b>Agency:</b> 190-Board of Industrial Insurance Appeals
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## 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: Susan Jones	Phone: 360-786-7404	Date: 02/17/2023
Agency Preparation: William Chase	Phone: 360-753-2790	Date: 03/08/2023
Agency Approval: Bob Liston	Phone: 360-753-6823	Date: 03/08/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 03/08/2023

## 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.*

Provides that self-insured municipal employers and self-insured employers' lay representative third-party administrators have a duty of good faith and fair dealing to workers with respect to all aspects of workers' compensation.

- Requires the Department of Labor and Industries to enforce the duty of good faith and fair dealing.
- Establishes penalties for violations of the duty of good faith and fair dealing.

Because this bill only applies to self-insured municipal employers and their third-party administrators, the Department expects only a minimal number of complaints and can investigate them within existing resources. Based on this, the BIIA also expects a very minimal number of appeals and no fiscal impact.

### 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.*

## 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

<b>Bill Number:</b> 5524 S SB	<b>Title:</b> Industrial insurance/duties	<b>Agency:</b> 235-Department of Labor and Industries
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

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

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.1	1.1	1.1	0.0	0.0
<b>Account</b>					
Accident Account-State 608-1	73,000	70,000	143,000	0	0
Medical Aid Account-State 609-1	72,000	70,000	142,000	0	0
<b>Total \$</b>	145,000	140,000	285,000	0	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: Susan Jones	Phone: 360-786-7404	Date: 02/17/2023
Agency Preparation: Donald Jenson Jr	Phone: 360-902-6981	Date: 02/21/2023
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 02/21/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 02/22/2023

## Part II: Narrative Explanation

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

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

See attached.

### II. B - Cash receipts Impact

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

See attached.

### II. C - Expenditures

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

See attached.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
608-1	Accident Account	State	73,000	70,000	143,000	0	0
609-1	Medical Aid Account	State	72,000	70,000	142,000	0	0
<b>Total \$</b>			145,000	140,000	285,000	0	0

### III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.1	1.1	1.1		
A-Salaries and Wages	96,000	96,000	192,000		
B-Employee Benefits	33,000	33,000	66,000		
C-Professional Service Contracts					
E-Goods and Other Services	16,000	11,000	27,000		
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	145,000	140,000	285,000	0	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
Fiscal Analyst 5	71,520	0.1	0.1	0.1		
Management Analyst 5	91,524	1.0	1.0	1.0		
<b>Total FTEs</b>		1.1	1.1	1.1		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.*

See attached.



## Part II: Explanation

The bill relates to industrial insurance self-insured municipal employer and third-party administrator penalties and duties.

The differences between SSB 5524 and SB 5524 include:

- SSB 5524 relates to self-insured municipal employers and their third-party administrators, rather than all self-insured employers and their third-party administrators.
- SSB 5524 removes the provisions increasing penalty amounts.
- SSB 5524 specifies that the department shall issue an order determining whether a violation has occurred within 30 calendar days of receipt of a complete complaint or its own motion.
- SSB 5524 states the maximum penalty for violating the duty of good faith and fair dealing to one to 52 times the average weekly wage.
- SSB 5524 adds a new basis for withdrawal of certification if the self-insured municipal employer has been found to violate the duty of good faith and fair dealing three times within three year period.
- SSB 5524 states that the withdrawal of certification may be delayed if the employer is in an enforceable contract with the third party administrator that cannot be legally terminated, and prohibits the self-insured employer from renewing or extending the contract.
- SSB 5524 states this act applies to alleged violations occurring on or after July 1, 2024.

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

**Section 1(1)** adds a new section to RCW 51.14 stating that self-insured municipal employers and third-party administrators have a duty of good faith and fair dealing to workers relating to all aspects of this title.

**Section 1(3)** adds a new section to RCW 51.14 requiring the Department of Labor and Industries (L&I) to adopt by rule additional applications of the duty of good faith and fair dealing as well as criteria for determining appropriate penalties for violation of its duties.

**Section 1(4)** adds a new section to RCW 51.14 requiring L&I to investigate each alleged violation of this section upon the filing of a written complaint or upon its own motion.

**Section 1(5)** adds a new section to RCW 51.14 requiring L&I to issue an order determining whether a violation of this section has occurred in conformance with RCW 51.52.050 and must be issued within 30 calendar days of receipt of a complete complaint or its own motion. An order finding that a violation has occurred must also order the employer to pay a penalty of one to 52 times the average weekly wage at the time of the order, depending upon the severity of the violation, which accrues for the benefit of the worker.

**Section 2** amends RCW 51.14.080 adding a new basis for withdrawal of certification if the self-insured municipal employer has been found to violate the duty of good faith and fair dealing three times within three year period. It further states that the withdrawal of certification may be delayed if the employer is in an enforceable contract with the third party administrator that cannot be legally terminated, and prohibits the self-insured employer from renewing or extending the contract.

**Section 3** states this act applies to alleged violations occurring on or after July 1, 2024.

## **II. B – Cash Receipt Impact**

Cash receipts are indeterminate. The bill allows L&I to assess penalties, but L&I has no way to estimate the frequency nor amounts of those penalties.

## **II. C – Expenditures**

This 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**

1.0 FTE, Management Analyst 5, temporary, from July 1, 2023 through June 30, 2025. Duties include managing the implementation, rulemaking activities, assisting the creation of new processes, changes in current processes, updates to written materials (internal training, external training, brochures and other), updating of information on the web, to include a worker centric web presence to communicate worker’s rights. Duties also include communications to self-insured municipal employers, third party administrators and other parties, setting up for anticipated data needs. Once the bill is implemented, the position will monitor Self-insurance’s compliance to the time frames for issuing orders, writing communications, keeping web information up-to-date, and acting as a penalty subject matter expert. Duties also include developing and monitoring data and reporting needs regarding penalties and ad hoc reports as requested.

Because the bill only applies to self-insured municipal employers and their third-party administrators, a minimal number of complaints is expected, and the investigations required in section 1(4) will be done with existing resources.

**Rule making**

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

**Indirect Costs**

The amount included in this fiscal note for indirect is:

Fund Name	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
608 Accident	3,500	0	0	0	0	0
609 Medical Aid	3,500	0	0	0	0	0
Total:	\$7,000	\$0	\$0	\$0	\$0	\$0

The department assesses an indirect rate to cover agency-wide administrative costs. Labor and Industries’ indirect rate is applied on salaries, benefits, and standard costs. For fiscal note

purposes, the total indirect amount is converted into salary and benefits for partial or full indirect FTEs. Salary and benefits costs are based on a Fiscal Analyst 5 (Range 59, Step G).

#### **Part IV: Capital Budget Impact**

None.

#### **Part V: New Rule Making Required**

This legislation would result in rule changes to:

- WAC 296-15-266, Penalties.
- WAC 296-15-320, Reporting of injuries.
- WAC 296-15-350, Handling of claims.
- WAC 296-15-420, Requesting allowance or denial, or interlocutory order from the department.
- WAC 296-15-550, Self-Insured third-party administrator duties and performance requirements.
- WAC 296-15-560, Self-insured third-party administrator penalties.

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

**Bill Number:** 5524 S SB

**Title:** Industrial insurance/duties

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

### Legislation Impacts:

Cities: Cities that are self-insured employers.

Counties: Same as above.

Special Districts:

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: The number of violation complaints that will be filed.

### 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: Kristine Williams	Phone: (564) 669-3002	Date: 02/23/2023
Leg. Committee Contact: Susan Jones	Phone: 360-786-7404	Date: 02/17/2023
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 02/23/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 02/23/2023

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

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

This legislation would require municipal self-insured employers, and their third-party administrators, to act in good faith and deal fairly with employees with regard to workers compensation claims.

Sec.1 creates a new section to chapter 51.14 RCW which directs the Department of Labor and Industries to adopt guidelines and criteria for violation penalties criteria using approved insurance industry practices, department experiences, and the industrial insurance laws and regulations in Washington. This section also establishes a timeline of 30 calendar days for the department to respond to written complaints, or its own motion, and establishes a penalty of one to 52 times the average weekly wage at the time of the department's violation order for the worker's benefit.

Sec.2 amends 51.14.080 RCW to add in subsection (1) (g) that if a self-insured municipal employer has been found to violate its duty of good faith and fair dealing three times within a three-year period, the director of the Labor and Industries Department must use the date of the department's order. Subsection (2) adds the provision that the director may delay a self-insured municipal employer certification while the employer is under contract with a licensed third-party administrator, but the administrator's contract may not be renewed or extended.

Sec.3 adds a new section which establishes an effective date of July 1, 2024, as the starting date for alleged violations.

### **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.*

The expenditure impact on local governments is indeterminate. As noted in the fiscal note prepared by the Department of Labor and Industries (L&I), this bill allows L&I to assess penalties but there is no way to estimate the frequency nor amounts of penalties that may be assessed on self-insured local governments. The Association of Washington Cities reports that there are currently 18 self-insured cities and 13 self-insured counties.

### **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.*

This legislation has no impact on local government revenue.

#### **SOURCES**

Department of Labor and Industries fiscal note S SB 5524 (2023)

Association of Washington Cities