

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5217 E S SB	<b>Title:</b> Musculoskeletal injuries/L&I
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## Estimated Cash Receipts

NONE

## Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Office of Administrative Hearings	.0	0	0	0	.0	0	0	0	.0	0	0	0
Board of Industrial Insurance Appeals	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Department of Labor and Industries	6.1	0	0	1,730,000	6.9	0	0	1,832,000	6.9	0	0	1,832,000
Department of Labor and Industries	In addition to the estimate above,there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
<b>Total \$</b>	<b>6.1</b>	<b>0</b>	<b>0</b>	<b>1,730,000</b>	<b>6.9</b>	<b>0</b>	<b>0</b>	<b>1,832,000</b>	<b>6.9</b>	<b>0</b>	<b>0</b>	<b>1,832,000</b>

## Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Office of Administrative Hearings	.0	0	0	.0	0	0	.0	0	0
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>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

## Estimated Capital Budget Breakout

NONE

<b>Prepared by:</b> Anna Minor, OFM	<b>Phone:</b> (360) 790-2951	<b>Date Published:</b> Final 3/16/2023
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5217 E S SB	<b>Title:</b> Musculoskeletal injuries/L&I	<b>Agency:</b> 110-Office of Administrative Hearings
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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: Trudes Tango	Phone: 360-786-7384	Date: 03/08/2023
Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 03/13/2023
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 03/13/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 03/13/2023

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.

No fiscal impact. This legislation will not increase the appeal workload for the Office of Administrative Hearings.

This bill makes changes and additions to the Washington Industrial Safety and Health Act. Appeals related to this act are the purview of the Board of Industrial Insurance Appeals.

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.

None.

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.

None.

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> 5217 E S SB	<b>Title:</b> Musculoskeletal injuries/L&I	<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:

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: Trudes Tango	Phone: 360-786-7384	Date: 03/08/2023
Agency Preparation: William Chase	Phone: 360-753-2790	Date: 03/16/2023
Agency Approval: Bob Liston	Phone: 360-753-6823	Date: 03/16/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 03/16/2023

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.

Section 4 adds a new section to RCW 49.17 that indicates the Department of Labor and Industries (L&I) may adopt rules to prevent musculoskeletal injuries and disorders for an industry or risk class, subject to certain limits detailed in the bill.

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.

The bill will likely create workload for the BIIA because of the potentially complex rulemaking and expansion of the L&I ergonomics program. However, without knowledge of specific rules and program expansion, it is not possible to estimate a fiscal impact, therefore the impact of this proposed legislation is indeterminate.

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

<b>Bill Number:</b> 5217 E S SB	<b>Title:</b> Musculoskeletal injuries/L&I	<b>Agency:</b> 235-Department of Labor and Industries
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	5.3	6.9	6.1	6.9	6.9
<b>Account</b>					
Accident Account-State 608-1	691,000	779,000	1,470,000	1,558,000	1,558,000
Medical Aid Account-State 609-1	123,000	137,000	260,000	274,000	274,000
<b>Total \$</b>	814,000	916,000	1,730,000	1,832,000	1,832,000

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: Trudes Tango	Phone: 360-786-7384	Date: 03/08/2023
Agency Preparation: Donald Jenson Jr	Phone: 360-902-6981	Date: 03/14/2023
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 03/14/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 03/15/2023

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	691,000	779,000	1,470,000	1,558,000	1,558,000
609-1	Medical Aid Account	State	123,000	137,000	260,000	274,000	274,000
Total \$			814,000	916,000	1,730,000	1,832,000	1,832,000

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	5.3	6.9	6.1	6.9	6.9
A-Salaries and Wages	489,000	630,000	1,119,000	1,260,000	1,260,000
B-Employee Benefits	163,000	212,000	375,000	424,000	424,000
C-Professional Service Contracts					
E-Goods and Other Services	89,000	70,000	159,000	140,000	140,000
G-Travel	3,000	4,000	7,000	8,000	8,000
J-Capital Outlays	70,000		70,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	814,000	916,000	1,730,000	1,832,000	1,832,000

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
Epidemiologist 1	85,020	0.5	0.5	0.5	0.5	0.5
Ergonomist 3	93,840	3.0	4.0	3.5	4.0	4.0
Fiscal Analyst 5	80,952	0.8	1.4	1.1	1.4	1.4
WMS2	104,887	1.0	1.0	1.0	1.0	1.0
Total FTEs		5.3	6.9	6.1	6.9	6.9

**III. D - Expenditures By Program (optional)**  
NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**  
NONE

**IV. B - Expenditures by Object Or Purpose**  
NONE

**IV. C - Capital Budget Breakout**  
*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*  
NONE

**IV. D - Capital FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*  
  
NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*  
  
See attached.

## Part II: Explanation

This bill relates to the state's ability to regulate certain industries and risk classes to prevent musculoskeletal injuries and disorders.

The differences between ESSB 5217 and SSB 5217 include:

- ESSB 5217 adds a definition of work related musculoskeletal injuries and disorders.
- ESSB 5217 adds a provision stating the rules would apply to an establishment engaged in activities as defined by the industry or risk classification.
- ESSB 5217 adds restrictions on using North American industry classification system (NAICS) when adopting these rules
- ESSB 5217 adds that no rule adopted under this act will be effective before July 1, 2026.
- ESSB 5217 adds a requirement to identify low priority industries and risk classifications in the list published annually.
- ESSB 5217 adds a requirement to identify industries and risk classification that are likely to be subject to this rulemaking in the future and to prioritize assistance to employers in these industries.
- ESSB 5217 removes consideration of NAICS at the six-digit level.
- ESSB 5217 adds a provision requiring up to three additional ergonomists to consult with employers, paid for from the accident and medical aid funds.

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

**Section 2** repeals RCW 49.17.360 and RCW 49.17.370 regarding ergonomics.

**Section 3** amends RCW 49.17.020 to include definitions for risk classification and work-related musculoskeletal injuries and disorders.

**Section 4** adds a new section to RCW 49.17 that indicates the Department of Labor and Industries (L&I) may adopt rules to prevent musculoskeletal injuries and disorders for an industry or risk class, subject to the limits in this section. Those limits include:

- Within a 12-month period, L&I may not adopt more than one set of rules related to preventing musculoskeletal injuries and disorders for an industry or risk class that previously did not have rules related to preventing musculoskeletal injuries and disorders. The rules would apply to an establishment engaged in activities as defined by the industry or risk classification.
- Subject to subsection 10, the department may not adopt emergency rules under RCW 34.05 relating to preventing musculoskeletal injuries and disorders for an industry or risk classification that previously did not have rules related to preventing musculoskeletal injuries and disorders.
- Rules providing standards may only be adopted for industries or risk classifications where compensable workers' compensation claims involved musculoskeletal injuries and disorders over a recent five-year period. Provides additional conditions of using NAICS.
- Within 90 days of L&I filing a preproposal statement of inquiry for industry or risk class specific rules related to preventing musculoskeletal injuries and disorders, L&I must provide a report to the appropriate committees of the legislature.
- During rule making, L&I must consider including options for an employer to demonstrate alternative control methods.
- Within filing a preproposal statement of inquiry for industry or risk class specific rules related to preventing musculoskeletal injuries and disorders, L&I must convene an advisory committee comprised of equal representatives of employers and workers from the industry or risk classification that will be subject to the rules.
- During rule making under this section, L&I must solicit input on the effective date. The effective date may not be less than 120 days after adoption and no rule may be effective prior to July 1, 2026.
- At least annually by November, L&I must publish a list of industries and risk classes eligible for rule making under this section. The list must identify low priority industries and risk classifications for whom the statistical trend suggests the industry or risk classification will have a rate lower than two times the state average in the next three

years. It also requires L&I to conduct a review of compensable workers compensation claim data identified in this subsection and publish the results of that review. Each year, L&I shall identify a list of industries or risk classes most likely to be selected for future rule making and prioritize efforts to provide technical assistance to those employers.

- For employee home offices, L&I does not have the authority to adopt any new or amended rules dealing with musculoskeletal injuries and disorders.
- The limit on rulemaking in this section does not apply to rules adopted or amended where required by the federal occupational safety and health administration.
- L&I must provide up to three additional ergonomists to provide consultation to employers in the industries and risk classifications in the list published under subsection 8(a) of this section. Funding for the additional ergonomists must be paid from the accident and medical aid funds.

**Section 5** authorizes L&I to provide funding to employers for equipment needed to comply with any musculoskeletal disorder rule under section 4 of this bill. An appropriation is not required for these expenditures.

## **II. B – Cash Receipt Impact**

### **Non-Appropriated – State Fund Premiums**

As an insurance entity, L&I premium rates are intended to match premiums to claims cost projections. Therefore, for this fiscal analysis it is assumed that any incremental costs or savings will equal the incremental revenue collected.

### **Non-Appropriated – Premium Impact to Employers**

Individual changes to the Accident and Medical Aid fund do not change rate assumptions by themselves. Cost increases are only one of many components in determining rates. The high-level strategy that is used to determine if a rate change is necessary is as follows:

- Review of liabilities, or costs of the Workers' Comp System.
- Investment earnings.

- Adequate revenue (premiums + investments) based on projected costs (actuarial estimates) will determine need for a premium change.

#### **Non-Appropriated – Self-Insured Employers**

If an employer chooses to be self-insured, they are responsible to pay for overall claim costs and a portion of administration costs of L&I's Self-Insurance Program and other costs of related support functions. The administrative assessment is an amount per dollar of claim benefit costs. If benefit costs are increased due to the change in the reporting of musculoskeletal injuries, self-insured employers would be assessed by L&I for their appropriate portion of administrative costs based on the increase. Incremental costs or savings will equal the incremental revenue collected from assessments.

#### **Receivables – Operating**

None.

## **II. C – Expenditures**

#### **Non-Appropriated – State Fund Benefits Costs**

There is indeterminate non-appropriated impact to the Accident Account, fund 608, and Medical Aid Account, fund 609. (Non-appropriated costs are not included in the Fiscal Note Summary.)

The bill, as written, does not require action by the department. For fiscal note purposes, L&I assumes pursuing rule making regarding ergonomics. Section 5 authorizes L&I to provide funding to employers for equipment needed to comply with any musculoskeletal disorder rule under section 4 of this bill. However, this is indeterminate at this time as the risk classes involved are determined and will not be until rules are completed. This will require 1.0 FTE, Fiscal Analyst 5, permanent, beginning January 1, 2024. Duties include remitting payments to employers for qualifying equipment purchases under this bill. This includes being involved with creating the rules to ensure compliance with requirements of the bill.

#### **Appropriated – Operating Costs**

The bill, as written, does not require action by the department. For fiscal note purposes, we are providing an estimate based on the assumption that the intent is for the department to move forward with this legislation.

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:

- L&I would pursue rulemaking allowed in this bill, and begin the process as quickly as possible after passage of this bill, the process will involve extensive partnership with stakeholders.
- Rulemaking is expected to be complex and generate new requirements, which will expand our current ergonomic program.
- L&I's current ergonomics staff is six Ergonomists.

### **Staffing**

To address rulemaking and determining those industries that will be evaluated, L&I will establish a team as follows:

1.0 FTE, Washington Management Service 2-Program Manager, permanent, beginning July 1, 2023. Duties include managing the expanded statewide ergonomics program. This includes leading the rule making process, managing ergonomics staff, and ensuring outreach to employers and workplace assessments are done in a timely manner.

1.0 FTE, Ergonomist 3, permanent, beginning October 1, 2023. Duties include assisting in rulemaking, education outreach, and compliance for concerning ergonomic related hazards for employers statewide. This includes developing and providing training and outreach to the affected annual risk class. They would participate in consultative and compliance activities related to ergonomic hazards in the affected risk class.

3.0 FTE, Ergonomist 3, permanent, beginning October 1, 2023. Duties include providing consultation to employers in the industries and risk classifications in the list published under section 4(8)(a)

0.5 FTE, Epidemiologist 1, permanent, beginning July 1, 2023. Duties include conducting workers compensation claim analysis to generate work-related musculoskeletal disorders (WMSD) compensable claim rates by industry and risk class, create comparative rates to determine which industries and risk classifications are eligible for regulation in accordance with



the bill, publish list of industries and risk classifications eligible for regulation, conduct a review of the compensable workers compensation claims to determine if claims meet case definition for WMSDs, determine WMSD compensable claim rate trends, evaluate trends in comparison to the overall trend, extrapolate trends for ‘low priority’ industries and risk classes to determine if the trend is likely to be lower than two times the state average, and publish data by providing WMSD data to stakeholders, legislature and the public. This reporting will be done annually.

Once rules are complete and the department has a better understanding of industries to be evaluated the department may require additional resources. These amount of resources will change based on the industry but resources may include:

- Ergonomists
- Economic Analysts
- Project management
- Change management
- Marketing and Outreach

At this time, the levels of resources are indeterminate.

#### **Indirect Costs**

The amount included in this fiscal note for indirect that are not indeterminate is:

Fund Name		FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
608	Accident	26,000	35,000	35,000	35,000	35,000	35,000
609	Medical Aid	5,000	6,000	6,000	6,000	6,000	6,000
	Total:	\$31,000	\$41,000	\$41,000	\$41,000	\$41,000	\$41,000

The department assesses an indirect rate to cover agency-wide administrative costs. Labor and Industries’ indirect rate is applied on salaries, benefits, and standard costs. For fiscal note purposes, the total indirect amount is converted into salary and benefits for partial or full indirect FTEs. Salary and benefits costs are based on a Fiscal Analyst 5 (Range 59, Step G).

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

None.

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

This legislation would result in new rules related to ergonomics.