

Multiple Agency Fiscal Note Summary

Bill Number: 5267 E S SB	Title: Railroad workers
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Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Office of Attorney General	0	0	80,000	0	0	27,000	0	0	0
Office of Administrative Hearings	0	0	36,000	0	0	36,000	0	0	36,000
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	116,000	0	0	63,000	0	0	36,000

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts	Fiscal note not available					
Loc School dist-SPI						
Local Gov. Other	Fiscal note not available					
Local Gov. Total						

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
Administrative Office of the Courts	Fiscal note not available											
Office of Attorney General	.3	0	0	80,000	.1	0	0	27,000	.0	0	0	0
Office of Administrative Hearings	.1	0	0	36,000	.1	0	0	36,000	.1	0	0	36,000
Utilities and Transportation Commission	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Labor and Industries	1.0	0	0	362,000	.5	0	0	181,000	.5	0	0	154,000
Department of Transportation	Fiscal note not available											
Total \$	1.4	0	0	478,000	0.7	0	0	244,000	0.6	0	0	190,000

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	Fiscal note not available								
Loc School dist-SPI									
Local Gov. Other	Fiscal note not available								
Local Gov. Total									

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Administrative Office of the Courts	Fiscal note not available								
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
Utilities and Transportation Commission	.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 Transportation	Fiscal note not available								
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	Fiscal note not available								
Loc School dist-SPI									
Local Gov. Other	Fiscal note not available								
Local Gov. Total									

Estimated Capital Budget Breakout

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

Bill Number: 5267 E S SB	Title: Railroad workers	Agency: 100-Office of Attorney General
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Legal Services Revolving Account-State 405-1	53,000	27,000	80,000	27,000	
Total \$	53,000	27,000	80,000	27,000	

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.4	0.2	0.3	0.1	0.0
Account					
Legal Services Revolving Account-State 405-1	53,000	27,000	80,000	27,000	0
Total \$	53,000	27,000	80,000	27,000	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: Trudes Tango	Phone: 360-786-7384	Date: 03/13/2023
Agency Preparation: Chad Standifer	Phone: 3605863650	Date: 03/15/2023
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 03/15/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	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.

Section 1: Findings.

Section 2: New Section – Adding definitions, including defining “employer” to mean any person or entity engaging in business as a railroad carrier, and “employee” to mean a person employed as a railroad carrier.

Section 3: New Section – Providing that the Department of Labor and Industries (L&I) will administer the new chapter.

Section 4: New Section – Requiring that employers allow unpaid time off under certain conditions.

Section 5: New Section – Making it unlawful for employers to discriminate against employees for exercising their rights under the chapter.

Section 6: New Section – Requiring L&I to investigate complaints received under the chapter, and authorizing L&I to order civil penalties for violations of the chapter or related rules.

Section 7: New Section – Providing appeal rights of L&I citations to the L&I Director, providing that the Office of Administrative Hearings (OAH) will hear the appeal and issue an initial order, providing that the L&I director issues a final order, and providing a right to judicial review under RCW 34.05 (Administrative Procedure Act).

Section 8: New Section – Authorizing L&I to initiate collection proceedings.

Section 9: New Section – Authorizing the L&I Director, in relation to unpaid penalties, to seek a warrant issuing a notice and order to withhold or deliver property, or institute a civil action, and providing for successor liability.

Section 10: New Section – Requiring employers to post information about the chapter, and providing a penalty for willfully failing to do so.

Section 11: New Section – Clarifying that the chapter does not modify other discrimination laws or family and medical leave rights.

Section 12: New Section – Clarifying that the chapter does not alter the obligation of employers to comply with collective bargaining agreements.

Section 13: New Section – Clarifying that the chapter shall not be construed to discourage employers from adopting more generous leave policies.

Section 14: New Section – Authorizing L&I to adopt rules under the chapter.

Section 15: New Section – Providing that the act be known as the “Shahraim C. Allen safe leave act for Washington State railroad workers”.

Section 16: New Section – Severability clause.

Section 17: Provides that Sections 1 through 15 are new chapters in RCW 49.

Section 18: Providing for an immediate effective date, except for Sections 6 through 10 which are effective January 1,

2024.

II. B - Cash receipts Impact

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

Cash receipts are assumed to equal the Legal Services Revolving Account (LSRA) cost estimates. These will be billed through the revolving account to the client agency.

The client agency is the Department of Labor and Industries (L&I). The Attorney General's Office (AGO) will bill all clients for legal services rendered.

These cash receipts represent the AGO's authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agency's fiscal note. Appropriation authority is necessary in the AGO budget.

AGO AGENCY ASSUMPTIONS:

L&I will be billed for Seattle rates:

FY 2024: \$53,000 for 0.2 Assistant Attorney General FTE (AAG) and 0.1 Legal Assistant 3 FTE (LA).
FY 2025 and FY 2026 (each FY): \$27,000 for 0.1 AAG and 0.05 LA.

II. C - Expenditures

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

Attorney General's Office (AGO) Agency Assumptions:

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.

Legal services are associated with implementation, investigations, enforcement and litigation under this chapter. L&I anticipates a low-level of complaints given the relatively small population of affected workers. Based on six complaints a year, it is possible that L&I would only issue a handful of final orders and receive no appeals to the Office of Administrative Hearings (OAH).

It is also possible that all six complaints will result in final orders and be appealed because of the unique provisions of this bill. The railroad industry has brought a number of federal preemption lawsuits in numerous jurisdictions, including a lawsuit filed in Washington State this week.

Litigation of that complexity requires 0.5 AAG per five cases. A conservative estimate is that at least one lawsuit will be filed in federal district court. A 0.1 AAG would cover litigation in federal district court and any litigation at OAH.

The current bill has an immediate effective date for some provisions, but most provisions are not effective until January 1, 2024. An AAG will also need to provide complex legal advice for implementation, policy making, and rulemaking, which will require 0.1 AAG.

Using figures based on current AAG services provided for employment standards and including additional advice, LNI will require an additional 0.2 AAG related to implementation and litigation described above beginning July 1, 2023 through July 1, 2024. After July 1, 2024, an additional 0.1 AAG will be necessary until July 1, 2026 limited to litigation at OAH and federal district court.

After July 1, 2026, legal services are nominal and costs are not included in this request.

LNI: Total Seattle workload impact:

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

FY 2025 and FY 2026 (each FY): \$27,000 for 0.1 AAG and 0.05 LA.

The AGO Solicitor General’s Office (SGO), Transportation and Public Construction Division (TPC), Licensing & Administrative Law Division (LAL), and Utilities and Transportation Commission (AGO-UTC) have reviewed this bill and determined it will not significantly increase or decrease the divisions’ workload. Any new legal services are nominal and costs are not included in this request.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
405-1	Legal Services Revolving Account	State	53,000	27,000	80,000	27,000	0
Total \$			53,000	27,000	80,000	27,000	0

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.4	0.2	0.3	0.1	
A-Salaries and Wages	36,000	18,000	54,000	18,000	
B-Employee Benefits	11,000	6,000	17,000	6,000	
E-Goods and Other Services	6,000	3,000	9,000	3,000	
Total \$	53,000	27,000	80,000	27,000	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
Assistant Attorney General-Seattle	124,635	0.2	0.1	0.2	0.1	
Legal Assistant 3-Seattle	67,044	0.1	0.1	0.1	0.0	
Management Analyst 5	91,524	0.1	0.0	0.0	0.0	
Total FTEs		0.4	0.2	0.3	0.1	0.0

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Labor & Industries Division (LNI)	53,000	27,000	80,000	27,000	
Total \$	53,000	27,000	80,000	27,000	

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: 5267 E S SB	Title: Railroad workers	Agency: 110-Office of Administrative Hearings
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Hearings Revolving Account-State 484-1	18,000	18,000	36,000	36,000	36,000
Total \$	18,000	18,000	36,000	36,000	36,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1	0.1	0.1	0.1	0.1
Account					
Administrative Hearings Revolving Account-State 484-1	18,000	18,000	36,000	36,000	36,000
Total \$	18,000	18,000	36,000	36,000	36,000

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: Trudes Tango	Phone: 360-786-7384	Date: 03/13/2023
Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 03/15/2023
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 03/15/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	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.

Section 2 prescribes the broader definitions of “child”, “family member” and other terms found in RCW 50A.05.010 relative to the state’s Paid Family Medical Leave program. This section excludes Class III carriers from the definition of “railroad carrier” for purposes of this new chapter.

Section 4 prohibits railroad carriers from dismissing, suspending, laying off, demoting, taking adverse action against, or otherwise disciplining employees for unpaid absences due to their mental or physical illness, injury, or health condition, including fatigue, as well as the care of a family member. Unpaid time off is also guaranteed for the closure of the employee’s or employee’s spouse’s/domestic partner’s place of business or child’s school or daycare by a public official for a health-related reason. Conditions apply here as well. The employee must have completed three consecutive months of continuance employment prior to the absence. Additionally, the employee cannot take more than 15 consecutive unpaid absence days and is maxed out at 90 unpaid absence days for this and any other railroad employer paid leave in the current calendar year. Employers may require employees to provide verification for absences under certain circumstances. This leave is separate from PFML.

Section 5 makes it unlawful for employers to (a) interfere with employees’ exercise or attempts to exercise rights under this new chapter, (b) discriminate against them for opposing unlawful practices under this chapter, or (3) filing complaints, giving information, or testifying relative to rights provided under this chapter.

Section 6 sets out the Department of Labor & Industries’ (L&I) enforcement process, beginning with an employee’s complaint, and the ensuing investigation. L&I may assess civil penalties, as well as back pay and reinstatement, if it determines a violation has occurred. Under Section 7, those issued a citation and notice of assessment may appeal to the L&I Director, who will assign it to the Office of Administrative Hearings for hearing in accordance with Chapter 34.05 RCW and issuance of an initial order.

Section 10 requires employers to conspicuously post a notice setting out pertinent provisions of this new law, along with information pertaining to filing a charge. Failing to properly post this notice subjects employers to civil penalties.

Work activities associated with the enactment of this bill will begin on July 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.

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 six new appeals being referred to the Office of Administrative Hearings (OAH) per fiscal year beginning in FY 2024. On average, each appeal is

expected to take approximately 13.1 hours of line Administrative Law Judge (ALJ) time including prehearing conferences, hearings, order writings, etc.

OAH Agency Workforce Assumptions:

- (1) The Governors proposed COLA increases in FY2024 and FY2025, and Collective Bargaining Agreement increases are not included in agency cost projections. Additional funding is required if these proposals are enacted.
- (2) Ratio of 1.0 FTE line ALJ to 0.15 Senior ALJ (SALJ), to 0.6 Legal Assistant 2 (LA2) (Range 40 step L), to 0.25 administrative support Management Analyst 5 (MA5) (Range 64 Step L).
- (3) ALJ salary is based on the ALJ collective bargaining agreement and assumed to be at step L. (Line ALJ-range 70. Senior ALJ-range 74.)
- (4) Benefit rates were analyzed by job class and projected using the latest benefit information available.
- (5) Goods and services, travel and on-going capital outlays were projected based on historical data for each of the job classifications.

Total workload impact beginning in FY 2024: 0.06 ALJ at a cost of \$18,000 per FY.

Work 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	18,000	18,000	36,000	36,000	36,000
Total \$			18,000	18,000	36,000	36,000	36,000

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	0.1	0.1
A-Salaries and Wages	11,000	11,000	22,000	22,000	22,000
B-Employee Benefits	4,000	4,000	8,000	8,000	8,000
C-Professional Service Contracts					
E-Goods and Other Services	3,000	3,000	6,000	6,000	6,000
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-					
Total \$	18,000	18,000	36,000	36,000	36,000

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	0.1	0.1	0.1
Total FTEs		0.1	0.1	0.1	0.1	0.1

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Regulatory & Education (REG)	18,000	18,000	36,000	36,000	36,000
Total \$	18,000	18,000	36,000	36,000	36,000

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: 5267 E S SB	Title: Railroad workers	Agency: 215-Utilities and Transportation Commission
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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: 03/13/2023
Agency Preparation: Amy Andrews	Phone: 360-481-1335	Date: 03/14/2023
Agency Approval: Amy Andrews	Phone: 360-481-1335	Date: 03/14/2023
OFM Review: Tiffany West	Phone: (360) 890-2653	Date: 03/14/2023

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.

Creation of the “Shahraim C. Allen Safe Leave Act for Washington Railroad Workers” (Act).

Prohibition on railroads from disciplining railroad employees because of illness or injury. A railroad carrier is prohibited from disciplining an employee because of absence due to illness or injury if the employee has completed three consecutive months of continuous employment and the period of absence does not exceed 12 weeks.

The carrier may, within 10 days after the employee returns to work, require the employee to provide documentation from a health care provider that the employee was incapable of working due to illness or injury. The employer must make the request for documentation in writing and give the employee at least 30 days to provide the documentation. Employee absences for illness or injury are not subject to any type of carrier availability or attendance policy and are stated to be separate from the family and medical leave insurance program.

The engrossed bill prohibits a railroad carrier from taking adverse employment actions against certain employees for unpaid absences, subject to certain limitations and establishes civil penalties for violations of 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.

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.

No impact to UTC as the agency is not mentioned in the bill and the language does not change our regulatory authority.

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: 5267 E S SB	Title: Railroad workers	Agency: 235-Department of Labor and Industries
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

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

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.5	0.5	1.0	0.5	0.5
Account					
Accident Account-State 608-1	218,000	88,000	306,000	153,000	130,000
Medical Aid Account-State 609-1	40,000	16,000	56,000	28,000	24,000
Total \$	258,000	104,000	362,000	181,000	154,000

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: Trudes Tango	Phone: 360-786-7384	Date: 03/13/2023
Agency Preparation: Allison Kaech	Phone: 360-902-4530	Date: 03/16/2023
Agency Approval: Trent Howard	Phone: 360-902-6698	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.

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	218,000	88,000	306,000	153,000	130,000
609-1	Medical Aid Account	State	40,000	16,000	56,000	28,000	24,000
Total \$			258,000	104,000	362,000	181,000	154,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.5	0.5	1.0	0.5	0.5
A-Salaries and Wages	118,000	37,000	155,000	74,000	74,000
B-Employee Benefits	42,000	14,000	56,000	28,000	28,000
C-Professional Service Contracts					
E-Goods and Other Services	96,000	51,000	147,000	75,000	48,000
G-Travel	2,000	2,000	4,000	4,000	4,000
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 \$	258,000	104,000	362,000	181,000	154,000

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 Rules Analyst 4	85,020	1.0		0.5		
Fiscal Analyst 5	71,520	0.1		0.1		
Industrial Relations Agent 3	69,756	0.4	0.5	0.5	0.5	0.5
Total FTEs		1.5	0.5	1.0	0.5	0.5

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 grants unpaid sick leave and retaliation protections to railroad employees.

The engrossed substitute bill differs from the original in several ways; most notably this version removes unpaid family and bereavement leave.

ESSB 5267 is different from SSB 5267 in that it:

- Removes the section granting family and medical leave and related provisions, including provisions regarding intermittent leave, verification by employers, job protection, and notice requirements.
- Removes the section allowing employees to take bereavement leave.
- Excludes class III carriers from the bill.
- Removes the private right of action and related provisions for violations of the antiretaliation provisions of the bill.
- Changes the requirement that an employer must allow their employees to take unpaid leave to a prohibition on an employer taking an adverse employment action against an employee for unpaid absences.
- Provides that the total number of unpaid absences and absences taken pursuant to railroad employer paid sick leave, rather than paid leave allowed under federal law, must be less than 91 days in the current calendar year.
- Includes fatigue as a health condition for which unpaid absences may be taken.

These differences do not change the fiscal impact for Labor and Industries.

Except for sections 6 through 10, which take effect January 1, 2024, this bill takes effect immediately.

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

Section 3: Administration

This section states that L&I will administer the chapter created by this act.

Section 4: Retaliation, authorized purposes and verification for unpaid leave

No railroad carrier may engage in any adverse action against an employee for unpaid leave absences if:

- Employee has completed three consecutive months of continuous employment
- Unpaid absence period does not exceed 15 days
- Employee has taken less than 91 days of unpaid leave and/or employer PSL in the current calendar year
- Is for an authorized purpose under (2), which adds the authorized purpose of “fatigue”

Employers may request verification for absences exceeding five days under this section within 10 days of the employee’s return to work.

- If an employer requests verification, the employer must give at least 30 days to obtain and provide the verification. Employer’s requirements for verification may not result in unreasonable burden or expense for the employee or exceed privacy or verification requirements otherwise established by law.
- Medical verifications requested may not require an explanation of the nature of the condition. Employers must treat any health information in a confidential manner, consistent with applicable privacy laws.
- Employee absences under this section are not subject to any type of carrier availability or attendance policy, and are separate from entitlements to leave under Title 50A RCW and Section 4 of this act.

Section 5: Retaliation prohibited

This section makes it unlawful for an employer to interfere with, restrain, or deny the exercise or attempted exercise of this chapter. This bill also prohibits the employer from retaliating for the exercise of rights, filing complaints, giving information in connection with an inquiry or proceeding, or testifying.

Section 6: Enforcement

This section requires L&I to investigate allegations of non-compliance with this new chapter and sets forth civil penalties L&I can levy. This bill requires L&I to deposit penalties in the

supplemental pension fund. L&I has 90 days to investigate and issue either a citation and notice of assessment, or a closure letter. L&I can also order other remedies such as back pay and reinstatement.

L&I may increase the fines by rule based on changing economic conditions.

- Up to \$5,000 for first violation
- Up to \$25,000 for a 2nd violation within a 3-year period
- Up to \$100,000 for subsequent (beyond 2nd) violations in a three-year period.

Section 7: Appeals

This section establishes appeal procedures, consistent with those found in the Wage Payment Act (RCW 49.48.084) except that closure letters (analogous to a Determination of Compliance in the Wage Payment Act) are not appealable.

Section 8: Collections authority

Establishes collections authority for the agency. L&I may issue warrants and withholds to collect the penalties assessed.

Section 9: Collections procedures

This section allows for the filing of warrants and writs of garnishment after a final order is issued, if the employer defaults in payment.

Section 10: Required poster

Requires employers to post a poster containing notice of the provisions of this bill. Employers who willfully violate this section may be subject to a civil penalty up to \$1,000. Penalty money goes to the Supplemental Pension Fund in Title 51.

Section 14: Rulemaking authority

Allows L&I to adopt rules necessary to implement this bill.

II. B – Cash Receipt Impact

Receivables – Operating

This bill requires civil penalties received by L&I to be deposited in the Supplemental Pension Fund, fund 881. L&I has the authority to issue penalties. L&I has no way to predict the amounts of each citation under this bill. Therefore, the cash receipt impact is indeterminate.

II. C – Expenditures

Appropriated – Operating Costs

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

Based on new input provided by the Attorney General’s Office, L&I is estimating a resource need for this bill due to complex litigation around this industry. Previous fiscal estimates were noted as minimal impact within existing resources.

Staffing

0.5 FTE, Industrial Relations Agent 3 (IRA3), permanent, effective October 1, 2023. Duties include investigating complaints of non-compliance, conducting outreach efforts, and establishing investigative procedures and operations manuals for leaves granted by this bill, developing the required poster, and serve as the statewide subject matter expert and consultant for matters relating to this bill and the rights granted thereunder.

- Complaints under this bill will be most analogous to Protected Leave complaints currently investigated by L&I. The 90-day timeline is also comparable to some other investigative timelines for laws currently administered by L&I’s protected leave specialist.
- There are approximately 3,000 workers working for railroad carriers (according to ESD occupational data). Identified subtypes of workers include:
 - SOC 49-3043: 369 employees
 - SOC 47-4061: 422 employees
 - SOC 53-4022: 386 employees
 - SOC 53-4031: 1279 employees
 - SOC 49-9097: 203 employees

- Given the availability of wage data for SOC 53-4099, but no employee count, we assume that the number of employees identified in ESD data understates the true number of potentially covered workers due to privacy or other reasons.
- The complaint rate here will likely be higher than that found for the Wage Payment Act. Under the department's current wage enforcement law, roughly 6,200 of the state's 3.2 million workers file a complaint per year, for a complaint rate of 0.2%.
- The Protected Leave Specialist conducts approximately 50 similar investigations per year.

Analysis:

- Applying the 0.2% projected complaint rate of eligible workers to the population of covered workers (3,000), yields 6 complaints per year (0.2% complaint rate X 3,000 covered workers = 6 complaints per year)
- Based on current investigative workload, this results in approximately 0.1 FTE solely based on complaint load (6 complaints / 50 complaints Protected Leave Specialist conducts = 0.12)
- However, the novelty and complexity of this law, the related outreach needs, and because the complaint rate here will likely be higher than data provided for the Wage Payment Act, this will increase the needed staff resource by at least 0.4 FTE, yielding a total FTE need of 0.5 FTE.

1.0 FTE, Administrative Rules Analyst 4 (ARA4), temporary, effective July 1, 2023 – June 30, 2024. Duties include conducting rulemaking, public hearings, drafting administrative policies, developing technical guidance and outreach publications for stakeholders.

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

Information Technology

At this time, IT resources are not needed. However, if complaints are higher than estimated, IT resources may be needed to modify and enhance multiple internal systems and create a new system for Leave Complaint Applications (LPA). Existing systems that would require enhancements include: Verify-a-Contractor, Account Receivable and Collections (ARC) and Front Counter (FC)

Printing & Mailing

\$2,200 is needed for printing, mailing and translation costs for:

- Printing 1,000 posters at \$0.50 each for a total cost of \$500, to be spent in fiscal year 2024.
- Mailing 1,000 posters at \$1.00 each for a total cost of \$1,000, to be spent in fiscal year 2024.
- Translating seven standard languages at \$100 per language for a total cost of \$700, to be spent in fiscal year 2024.

Rulemaking

Rulemaking is no longer mandatory, however L&I assumes rulemaking is necessary to enforce and implement the requirements of Section 4. Therefore, \$7,500 is needed for three rulemaking hearings to occur prior to January 1, 2024. The average cost of one rule making hearing is \$2,500 (3 hearings x \$2,500 each = \$7,500).

Attorney General – Legal Services

\$53,000 is needed for fiscal year 2024, and \$27,000 for fiscal years 2025 and 2026 for legal services related to implementation, investigations, enforcement and litigation under this bill.

Administrative Hearings

\$18,000 is needed per fiscal year for 0.06 administrative law judge beginning in FY2024 to handle six new appeals being referred to the Office of Administrative Hearings per fiscal year.

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	7,600	2,900	2,900	2,900	2,900	2,900
609	Medical Aid	1,300	500	500	500	500	500
	Total:	\$8,900	\$3,400	\$3,400	\$3,400	\$3,400	\$3,400

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

New WAC rules will need to be developed to implement Section 11 of this bill.