

Multiple Agency Fiscal Note Summary

Bill Number: 5236 E 2S SB	Title: Hospital staffing standards
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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	204,000	0	0	1,127,000	0	0	1,364,000
Office of Administrative Hearings	0	0	34,000	0	0	125,000	0	0	286,000
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.								
Department of Health	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	238,000	0	0	1,252,000	0	0	1,650,000

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	.7	0	0	204,000	3.7	0	0	1,127,000	4.4	0	0	1,364,000
Office of Administrative Hearings	.1	0	0	34,000	.4	0	0	125,000	1.0	0	0	286,000
Department of Labor and Industries	12.5	0	0	5,547,000	27.7	0	0	7,498,000	27.7	0	0	7,900,000
Department of Social and Health Services	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Department of Health	16.6	1,892,000	1,892,000	4,787,000	20.3	0	0	5,701,000	20.3	0	0	5,518,000
Department of Corrections	.0	0	0	0	.0	0	0	0	.0	0	0	0
University of Washington	1.8	0	0	630,753	2.6	0	0	704,504	2.6	0	0	704,504
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	163,083	163,083	163,083	.0	0	0	0	.0	0	0	0
Total \$	32.2	2,055,083	2,055,083	11,365,836	54.7	0	0	15,155,504	56.0	0	0	15,772,504

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 3/17/2023
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Individual State Agency Fiscal Note

Bill Number: 5236 E 2S SB	Title: Hospital staffing standards	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	32,000	172,000	204,000	1,127,000	1,364,000
Total \$	32,000	172,000	204,000	1,127,000	1,364,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.2	1.1	0.7	3.7	4.4
Account					
Legal Services Revolving Account-State 405-1	32,000	172,000	204,000	1,127,000	1,364,000
Total \$	32,000	172,000	204,000	1,127,000	1,364,000

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:	Phone:	Date: 03/09/2023
Agency Preparation: Amy Flanigan	Phone: 509-456-3123	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 – New Section added to chapter 43.70 RCW. Requires Department of Health (DOH) to consult with the Department of Labor and Industries (L&I) to establish an advisory committee on hospital staffing by September 1, 2023. Sets out how appointments to the committee are made and what is required of committee membership. Sets out how often the committee will meet and requires DOH and L&I to provide certain information at specific times for specific reasons. By December 1, 2023 the Washington State Hospital Association shall survey hospitals and reports to the committee on hospital staffing issues. Report review also required. Also requires the committee to create uniform forms.

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 January 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 January 1, 2025 plans must be submitted to 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. DOH shall investigate complaints submitted as violations of RCW 70.41.420. DOH and L&I must make formal agreement under Sections 5 and 6 and investigate complaints in specific circumstances. DOH and L&I may investigate and take appropriate enforcement action without a complaint if data found during an investigation or inspections discovers said data. Sets out requirements for Corrective Plans of Action (CPA). Sets out circumstances where no violations will be found. Sets out other time frames relevant to investigations and complaints. Sets out what is included in CPA. Sets out rules for assessments of penalties.

Section 5 – New Section added to chapter 70.41 RCW. DOH and L&I must establish formal agreement setting out roles of each with respect to oversight and enforcement of RCW 70.41.420 by July 1, 2024.

Section 6 – New Section added to chapter 49.12 RCW. L&I and DOH must establish formal agreement setting out roles of each with respect to oversight and enforcement of RCW 70.41.420 by July 1, 2024.

Section 7 – Amends RCW 70.41.130. Amends certain definitions.

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

Section 9 – New Section added to chapter 49.12 RCW. Requires DOH to enforce provisions of RCW 49.12.480. Requires imposition of penalties in specific circumstances. Prohibits employers from taking adverse actions against employees for exercising rights under this section. Requirements for investigation, penalties and appeals of decisions.

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 Sections 12-14 of this Act.

Section 12 – New Section added to chapter 49.12 RCW. 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 added to chapter 49.12 RCW. 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 added to chapter 49.12 RCW. States that collections of unpaid penalties are governed by RCW 49.48.086.

Section 15 – New Section. Washington State Institute for Public Policy to conduct a study on hospital staffing standards.

Section 16 – Repeals 2017 c 249 s 4.

Section 17 – Effective July 1, 2024, except for Sections 1, 3, 15, and 16.

Section 18 – Section 16 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 Department of Health (DOH). 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 2024: \$27,000 for 0.1 Assistant Attorney General FTE (AAG) and 0.05 Legal Assistant 3 FTE (LA).

FY 2025: \$162,000 for 0.6 AAG and 0.3 LA.

FY 2026: \$433,000 for 1.6 AAG and 0.8 LA.

FY 2027 and in each FY thereafter: \$674,000 for 2.5 AAG and 1.25 LA.

DOH will be billed for non-Seattle rates:

FY 2024: \$5,000 for 0.02 AAG and 0.01 LA.

FY 2025 to FY 2027 (in each FY): \$10,000 for 0.04 AAG and 0.02 LA.

FY 2028 and in each FY thereafter: \$8,000 for 0.03 AAG and 0.02 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.

Location of staffing is assumed to be in a Seattle and non-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's (LNI) legal services for the Department of Labor and Industries (L&I):

The AGO will bill L&I for legal services based on the enactment of this bill.

Beginning July 1, 2023, client advice services will be needed to address implementations for all the provisions AAGs will also need to provide complex legal advice for implementation, policy making, and rulemaking, which will require an additional 0.1 AAG FTE.

Following the implementation of the first meal and rest break and mandatory overtime (OT) provisions effective July 1, 2024, the L&I anticipates 169 additional meal and rest break complaints and 23 mandatory OT complaints beginning July 1, 2024, when the changes to meal & rest break and OT changes become effective for a total of 192 complaints. Historically, 30 percent of these types of investigations related to the health care industry result in final order, and very conservative estimate of the appeal rate is 20 percent, which results in 12 additional appeals. Appeals of this complexity require approximately 0.5 FTE per 10 cases, so 0.5 FTE associated with these provisions and ongoing 0.1 AAG FTE for a total of 0.6 AAG FTE beginning July 1, 2024 through July 1, 2026.

Beginning July 1, 2026, the larger hospitals reporting meal and rest break violations through quarterly reporting must be cited for being less than 80 percent compliance (with a smaller number being excluded until July 1, 2027). An estimated 30 percent of the 200 reports will be non-compliant and lead to a compliance action, equaling 60 out of compliance reports. This may change during ongoing review of the reports, but we anticipate 12 additional OAH appeals of high complexity beginning July 1, 2026. With previous complaints under other provisions, a total of 517 complaints, which equates with 31 appeals per year. Appeals of this complexity require approximately 0.5 FTE per 10 cases, so 0.5 FTE associated with these provisions and ongoing 1.5 AAG FTE for a total of 1.6 AAG FTE beginning July 1, 2024, through July 1, 2026.

Beginning January 1, 2027, hospitals will begin providing corrective action plans and all staffing requirements will be in effect. By July 1, 2027, the department anticipates a total 814 additional complaints when all provisions are in effect. Historically, 30 percent of these types of investigations related to the health care industry result in final order. A very conservative estimate of the appeal rate is 20 percent, which results in 49 additional appeals to the Office of Administrative Hearings. For these reasons, the program anticipates at least 500 staffing complaints per year which will result in 250 Corrective Action Plans (CAP). We anticipate 30 percent of the 250 CAPs will lead to a citation (50 CAPs) with 20 percent leading to an appeal. Based on the variety of staffing complaints, the Appeals of this complexity require approximately 0.5 FTE per 10 cases or 2.5 total AAG FTES. Beginning July 1, 2027, 2.5 AAG FTE limited to the ongoing litigation and client advice as implementation will be largely complete by that date.

LNI: Total Seattle workload impact:

FY 2024: \$27,000 for 0.1 AAG and 0.05 LA.

FY 2025: \$162,000 for 0.6 AAG and 0.3 LA.

FY 2026: \$433,000 for 1.6 AAG and 0.8 LA.

FY 2027 and in each FY thereafter: \$674,000 for 2.5 AAG and 1.25 LA.

Assumptions for the AGO Agriculture & Health Division (AHD) legal services for the Department of Health (DOH):

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

This bill would make enact changes to require hospitals to implement hospital staffing committees and follow committee-approved staffing plans. DOH would be responsible for convening an advisory committee, receiving reports, conducting investigations, and taking administrative action for noncompliance, in concert with L&I.

AHD: Total non-Seattle workload impact:

FY 2024: \$5,000 for 0.02 AAG and 0.01 LA.

FY 2025 to FY 2027 (in each FY): \$10,000 for 0.04 AAG and 0.02 LA.

FY 2028 and in each FY thereafter: \$8,000 for 0.03 AAG and 0.02 LA.

Total Seattle and non-Seattle workload impact:

FY 2024: \$32,000 for 0.12 AAG, 0.06 LA.

FY 2025: \$172,000 for 0.64 AAG and 0.32 LA.

FY 2026: \$443,000 for 1.64 AAG and 0.82 LA.

FY 2027: \$684,000 for 2.54 AAG and 1.27 LA.

FY 2028 and in each FY thereafter: \$682,000 for 2.53 AAG and 1.27 LA.

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	32,000	172,000	204,000	1,127,000	1,364,000
Total \$			32,000	172,000	204,000	1,127,000	1,364,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.2	1.1	0.7	3.7	4.4
A-Salaries and Wages	21,000	116,000	137,000	756,000	914,000
B-Employee Benefits	7,000	36,000	43,000	239,000	290,000
E-Goods and Other Services	4,000	19,000	23,000	125,000	152,000
G-Travel		1,000	1,000	7,000	8,000
Total \$	32,000	172,000	204,000	1,127,000	1,364,000

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	118,700	0.0	0.0	0.0	0.0	0.0
Assistant Attorney General-Seattle	124,635	0.1	0.6	0.4	2.1	2.5
Legal Assistant 3	55,872	0.0	0.0	0.0	0.0	0.0
Legal Assistant 3-Seattle	67,044	0.1	0.3	0.2	1.0	1.3
Management Analyst 5	91,524	0.0	0.2	0.1	0.5	0.6
Total FTEs		0.2	1.1	0.7	3.7	4.4

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Agriculture & Health Division (AHD)	5,000	10,000	15,000	20,000	16,000
Labor & Industries Division (LNI)	27,000	162,000	189,000	1,107,000	1,348,000
Total \$	32,000	172,000	204,000	1,127,000	1,364,000

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 E 2S SB	Title: Hospital staffing standards	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		34,000	34,000	125,000	286,000
Total \$		34,000	34,000	125,000	286,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.2	0.1	0.4	1.0
Account					
Administrative Hearings Revolving Account-State 484-1	0	34,000	34,000	125,000	286,000
Total \$	0	34,000	34,000	125,000	286,000

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:	Phone:	Date: 03/09/2023
Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 03/14/2023
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 03/14/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	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.

Section 4 mandates that the Department of Labor and Industries (L&I), per agreement with the Department of Health, investigate unresolved complaints of hospital failure to follow the hospital staffing plan's nursing staff assignments in patient care units, or upon discovery of data suggesting such a failure. L&I may impose civil penalties against hospitals that fail to follow the corrective action plans they submit as a result of failure to properly assign nursing staff. These penalties may be appealed.

Section 8 continues to amend 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 8 now requires employers to provide L&I a quarterly report of the total meal and rest periods missed, and the total meal and rest periods required. Hospitals will have until July 1, 2026, to comply with this reporting requirement.

Section 9 requires L&I to impose penalties, beginning July 1, 2026 (July 1, 2028 for hospitals), on employers less than 80% compliant with meal and rest break requirements or if an employer fails to properly report. Section 9 prohibits retaliation against employees for exercising any right under RCW 49.12.480 and allows L&I to impose civil penalties and order "appropriate relief" for violations. Section 9 also prohibits employers from coercing employees into inaccurately recording their meal and rest periods and allows L&I to impose civil penalties and order appropriate relief for violations.

Section 10 amends RCW 49.28.140 regarding overtime work by employees at health care facilities. Specifically, it now allows for mandatory, prescheduled on-call time for nonemergent patient procedures when the health care provider believes a delay would cause a worse clinical outcome.

Section 12 adds a new section to Chapter 49.12 RCW allowing L&I to investigate complaints against health care facilities regarding noncompliance with the overtime provisions of RCW 49.28.140, and issue citations and penalties, with certain limitations. These are appealable under Section 13.

Work activities associated with the enactment of this bill will begin on July 1, 2024.

II. B - Cash receipts Impact

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

As a central service agency, the Office of Administrative Hearings (OAH) bills referring agencies for its costs and collects the revenue into the Administrative Hearings Revolving Account. Cash receipts are assumed to equal costs. OAH will bill the Department of Labor & Industries for the costs related to this proposed legislation.

These cash receipts represent the OAH's authority to bill and are not a direct appropriation to OAH. Appropriation authority is necessary in OAH's budget.

II. C - Expenditures

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

The Department of Labor & Industries (L&I) estimates that the proposed legislation will result in new appeals being referred to the Office of Administrative Hearings (OAH) per fiscal year beginning in FY 2025. On average, each appeal is expected to take approximately 14 hours of line Administrative Law Judge (ALJ) time including prehearing conferences,

hearings, order writings, etc.

L&I Appeal Assumptions:

FY 2024 – None

FY 2025 & FY 2026 – 12

FY 2027 – 31

FY 2028 and in each FY thereafter - 49

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 and FY 2026: 0.12 ALJ at a cost of \$19,943; 0.07 LA2 at a cost of \$7,193. The total cost is rounded to \$34,000 per FY.

FY 2027: 0.31 ALJ at a cost of \$51,521; 0.05 SALJ at a cost of \$8,333; 0.19 LA2 at a cost of \$18,583; 0.08 MA5 at a cost of \$11,448. The total cost is rounded to \$91,000.

FY 2028 and in each FY thereafter: 0.49 ALJ at a cost of \$81,436; 0.07 SALJ at a cost of \$13,172; 0.29 LA2 at a cost of \$29,374; 0.12 MA5 at a cost of \$18,158. The total cost is rounded to \$143,000 per FY.

Work activities associated with the enactment of this bill will begin on July 1, 2024.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
484-1	Administrative Hearings Revolving Account	State	0	34,000	34,000	125,000	286,000
Total \$			0	34,000	34,000	125,000	286,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.2	0.1	0.4	1.0
A-Salaries and Wages		21,000	21,000	76,000	174,000
B-Employee Benefits		7,000	7,000	25,000	58,000
C-Professional Service Contracts					
E-Goods and Other Services		6,000	6,000	22,000	50,000
G-Travel				1,000	2,000
J-Capital Outlays				1,000	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	34,000	34,000	125,000	286,000

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	0.2	0.5
Legal Assistant 2	50,592		0.1	0.0	0.1	0.3
Management Analyst 5	91,524				0.0	0.1
Senior Administrative Law Judge	117,168				0.0	0.1
Total FTEs			0.2	0.1	0.4	1.0

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Regulatory & Education (REG)		34,000	34,000	125,000	286,000
Total \$		34,000	34,000	125,000	286,000

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 E 2S SB	Title: Hospital staffing standards	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	7.0	18.0	12.5	27.7	27.7
Account					
Accident Account-State 608-1	2,427,000	2,236,000	4,663,000	6,299,000	6,642,000
Medical Aid Account-State 609-1	446,000	438,000	884,000	1,199,000	1,258,000
Total \$	2,873,000	2,674,000	5,547,000	7,498,000	7,900,000

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:	Phone:	Date: 03/09/2023
Agency Preparation: Shana J Snellgrove	Phone: 360-902-6408	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: 03/17/2023

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	2,427,000	2,236,000	4,663,000	6,299,000	6,642,000
609-1	Medical Aid Account	State	446,000	438,000	884,000	1,199,000	1,258,000
Total \$			2,873,000	2,674,000	5,547,000	7,498,000	7,900,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	7.0	18.0	12.5	27.7	27.7
A-Salaries and Wages	608,000	1,347,000	1,955,000	3,926,000	3,926,000
B-Employee Benefits	208,000	498,000	706,000	1,494,000	1,494,000
C-Professional Service Contracts	598,000	136,000	734,000		
E-Goods and Other Services	1,315,000	536,000	1,851,000	1,970,000	2,372,000
G-Travel	9,000	32,000	41,000	108,000	108,000
J-Capital Outlays	135,000	125,000	260,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	2,873,000	2,674,000	5,547,000	7,498,000	7,900,000

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	1.0
Customer Service Specialist 2	46,980	0.3	1.9	1.1	4.5	4.5
Fiscal Analyst 5	71,520	0.4	1.1	0.8	1.7	1.7
Industrial Relations Agent 3	69,756	1.7	8.5	5.1	14.5	14.5
Industrial Relations Agent 4	75,120	0.5	1.5	1.0	2.0	2.0
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
Revenue Agent 2	64,788	0.3	1.0	0.7	1.0	1.0
WMS Band 2	104,887	1.0	1.0	1.0	1.0	1.0
Total FTEs		7.0	18.0	12.5	27.7	27.7

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.

Part II: Explanation

This bill expands staffing committees to include additional nursing staff, modifies staffing committee requirements, and clarifies standards and enforcement regarding mandatory overtime and uninterrupted meal and rest breaks.

Changes in E2SSB 5236 include:

- Removes the creation of a new chapter in Title 49 RCW and corresponding recodifications and instead makes modifications to existing statutes.
- Removes the rulemaking provisions and instead incorporates a co-enforcing mechanism between the Department of Labor & Industries (L&I) and the Department of Health (DOH) by an agreement between the agencies.
- Requires DOH, in consultation with L&I, to establish an advisory committee on hospital staffing by September 1, 2023.
- The advisory committee must also advise the agencies on the development of a uniform form for reporting meal and rest break violations by March 1, 2024.
- Hospitals as defined in the chapter, which excludes critical care hospitals and other small hospitals, must implement staffing plans by July 1, 2025.
- Requires that hospitals self-report to DOH when they fail to comply with 80 percent of nurse staffing assignments in the staffing plan each month and provide a corrective action plan. If hospital fails to meet an 80 percent compliance rate for hospital staffing requirements, L&I will conduct investigations and monitor corrective action plans. L&I may cite for the violations.
- Requires hospitals to provide a quarterly report to L&I of the total meal and rest periods missed. The hospitals excluded from the staffing plan compliance report are also excluded.
- Until June 30, 2026, L&I must provide technical assistance to hospitals with below an 80 percent compliance rate with meal and rest breaks, with the technical assistance becoming discretionary after that date.
- Requires L&I, beginning July 1, 2026, to impose a penalty for missed meal and rest breaks for employers that exceed the threshold for missed meal and rest breaks.

- Establishes penalties for meal and rest break violations based on the number of beds in the hospital, ranging from \$5,000 to \$20,000. Requires the doubling of penalties for violations in three consecutive quarters.
- Prohibits retaliation against employees for exercising rights granted by the meal and rest break requirements and imposes penalties for retaliation.
- Requires employers to provide valid data and prohibits coercing employees into inaccurate recording of meal and rest breaks.
- Removes the changes to the definitions for the purposes of the mandatory overtime provisions in earlier versions, removes the cap on prescheduled on-call time, and provides that prescheduled on-call time may not be used to begin at a time when the duration of the procedure that is expected to exceed the employee's regular scheduled hours of work, except for non-emergent patient procedures for which, in the judgment of the provider, a delay would cause a worse clinical outcome.
- Prohibits L&I from assessing a civil penalty if the employer reasonably relied certain public communications from L&I, including administrative policies.

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

Section 1 creates a new section in Chapter 43.70 RCW (Department of Health). Requires the DOH, in consultation with L&I, to establish an advisory committee on hospital staffing by September 1, 2023. If any member of the advisory committee is unable to continue to serve on the committee, the secretary of DOH and the director of L&I shall select a new member. The advisory committee on hospital staffing must advise L&I on its development of a uniform form for reporting meal and rest break violations under RCW 49.12.480(2) by March 1, 2024. L&I must also submit quarterly data to the committee and participate in additional tasks related to the advisory committee through 2030. This section expires July 1, 2030.

Section 2 amends RCW 70.41.410 by updating definitions pertaining to this section, RCW 70.41.420 and 70.41.425, unless clearly stated otherwise.

Section 3 amends RCW 70.41.420 by updating hospital staffing committee requirements.

- By January 1, 2024, each hospital shall establish a hospital staffing committee. The committee shall produce the hospital's annual hospital staffing plan.
- By July 1, 2024, the hospital staffing committee shall file a charter with DOH on roles, responsibilities, and processes for the staffing committee.
- Each hospital shall implement the staffing plan and assign staff by July 1, 2025.
- Each hospital must report to DOH on a semiannual basis the accurate percentage of nurse staffing assignments where the assignment in a patient care unit is out of compliance with the adopted staffing plan.
- DOH must create a form with a checkbox for the hospital to self-report the staffing plan compliance issues.
- DOH and L&I must provide technical assistance to hospital staffing committees to assist with compliance with this section, except during an investigation.
- The hospital staffing committee shall use a uniform format or form, created by DOH in consultation with the advisory committee and L&I, for complying with the requirement to submit the annual staffing plan.

Section 4 amends RCW 70.41.425 by updating hospital staffing plan investigations.

- Based on their formal agreement established in sections 5 and 6, DOH and L&I shall investigate complaints alleging the covered hospital has failed to follow the nursing staff assignments in a patient care unit in violation of RCW 70.41.420(7)(c) or (d) that were submitted to the hospital staffing committee and remain unresolved for 60 days after receipt by the hospital staffing committee, excluding complaints determined by the hospital staffing committee to be resolved or dismissed.
- DOH and L&I may investigate and take appropriate enforcement action without any complaint if either department discovers data in the course of an investigation or inspection suggesting any violation of RCW 70.41.420.
- After an investigation conducted under (a) of this subsection, if DOH and L&I, pursuant to their formal agreement under sections 5 and 6 of this act, determine that there has been multiple unresolved violations of RCW 70.41.420(7) (c) and (d) of a similar nature within 30 days prior to the receipt of the complaint by DOH, DOH shall require the

hospital to submit for their approval a corrective plan of action within 45 days of the presentation of findings from DOH to the hospital.

- Hospitals will not be found in violation of RCW 70.41.420 if it has been determined, following an investigation, that:
 - There were unforeseeable emergent circumstances and the hospital has followed the process under RCW 70.41.420(7)(f) (if applicable);
 - The hospital, after consultation with the hospital staffing committee, documents that the hospital has made reasonable efforts to obtain and retain staffing to meet required personnel assignments but has been unable to do so; or
 - Per documentation provided by the hospital, an individual admission of a patient in need of critical care to sustain their life or prevent disability received from another hospital caused the staffing plan violation alleged in the complaint.
- DOH shall review each hospital staffing plan submitted by a hospital to ensure it is received by the appropriate deadline and is completed on the department-issued staffing plan form.
- The hospital must complete all applicable portions of the staffing plan form. DOH may determine that a hospital has failed to timely submit its staffing plan if the staffing plan form is incomplete.
- Beginning January 1, 2027, DOH shall review all reports submitted under RCW 70.41.420(7)(b)(i) to ensure:
 - The forms are received by the appropriate deadline;
 - The forms are completed on the department-issued form; and
 - The checkbox under RCW 70.41.420(7)(b)(iii) has not been checked.
- Beginning January 1, 2027, DOH, in consultation with L&I, must require a hospital to submit for their approval a corrective plan of action within 45 calendar days of a report to the department under RCW 70.41.420(7)(b)(ii) of this section or after an investigation under RCW 70.41.420(7)(b)(iii) of this section finds that the hospital is not in compliance.
- Pursuant to their formal agreement under sections 5 and 6 of this act, DOH and L&I must review and approve a hospital's proposed corrective plan of action under subsection (1)(c) or (4) of this section. As necessary, DOH will require the hospital to revise the plan

for it to adequately address issues identified by DOH and the L&I prior to approving the plan. DOH may review any corrective plan of action under subsection (1)(c) or (4) of this section that adversely impact provision of health care services or patient safety, and may require revisions to the corrective plan of action to ensure patient safety is maintained.

- A corrective plan of action may include, but is not limited to, the following elements:
 - Exercising efforts to obtain additional staff;
 - Implementing actions to improve staffing plan variation or shift-to-shift adjustment planning;
 - Delaying the addition of new services or procedure areas;
 - Requiring minimum staffing standards;
 - Reducing hospital beds or services; or
 - Closing the hospital emergency department to ambulance transport, except for patients in need of critical care to sustain their life or prevent disability.
- A corrective plan of action must be of a duration long enough to demonstrate the hospital's ability to sustain compliance with the requirements of this section.
- In the event that the hospital follows a corrective plan of action under this subsection but remains in compliance for less than 80 percent of the nurse staffing assignments in the month following completion of the corrective plan of action, the hospital is required to submit a revised corrective plan of action with new elements that are likely to produce a minimum of 80 percent compliance with the nurse staffing assignments in a month.
- In the event that a hospital fails to submit a staffing plan, staffing committee charter, or a corrective plan of action by the relevant deadline, DOH may take administrative action with penalties up to \$10,000 per 30 days of failure to comply.
- In the event that a hospital submits but fails to follow a corrective plan of action required under subsection (1)(c) or (4) of this section, L&I may impose a civil penalty of \$50,000 per 30 days. Civil penalties apply until the hospital begins to follow a corrective plan of action that has been approved by the department. Revenue from these fines must be deposited into the Supplemental Pension Fund established under RCW 51.44.033.

- If L&I finds a violation after an investigation pursuant to subsection (1)(a)(iv)(B) of this section or assesses or imposes any penalty pursuant to this section, the employer may appeal the department's finding or assessment of penalties according to the procedures under sections 12 through 14.
- As resources allow, DOH must make records of any civil penalties and administrative actions or license suspensions or revocations imposed on hospitals, or any notices of resolution under this section available to the public.
- DOH must post hospital staffing plans, hospital staffing committee charters, and the semi-annual compliance reports required under RCW 70.41.420 on its website.

Section 5 creates a new section in Chapter 70.41 RCW (Hospital Licensing and Regulation):

- By July 1, 2024, DOH and L&I must jointly establish a formal agreement that identifies the roles of each of the two agencies with respect to the oversight and enforcement of RCW 70.41.420 (4)(a) and (12) and 70.41.425 (1), (4), (5), (6)(b), and (7), as follows:
 - To the extent feasible, provide for oversight and enforcement actions by a single agency, and must include measures to avoid multiple citations for the same violation; and
 - Include provisions that allow for data sharing, including hospital staffing plans, reports submitted under RCW 70.41.420 (7), and hospital staffing committee complaints submitted to DOH.

Section 6 creates a new section in Chapter 49.12 RCW (Industrial Welfare):

- By July 1, 2024, L&I and DOH must jointly establish a formal agreement that identifies the roles of each of the two agencies with respect to the oversight and enforcement of RCW 70.41.420 (7) and 70.41.425 (1) and (5)(b), as follows:
 - To the extent feasible, provide for oversight and enforcement actions by a single agency, and must include measures to avoid multiple citations for the same violation; and
 - Include provisions that allow for data sharing, including hospital staffing plans, reports submitted under RCW 70.41.420(7), and hospital staffing committee complaints submitted to DOH.

Section 7 amends RCW 70.41.130 authorizing DOH to take any of the actions identified in this section against a hospital's license or provisional license in any case in which it finds that there has been a failure or refusal to comply with the requirements of this chapter or the standards or rules adopted under this chapter or the requirements of RCW 71.34.375 on the basis of findings by L&I under RCW 70.41.425(6)(b) (a hospital submits but fails to follow a corrective plan of action required).

Section 8 amends RCW 49.12.480 by expanding the definition of employee and employer in meal and rest break requirements for health care facilities.

- 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.
- The employer must provide a quarterly report to L&I of the total meals and rest periods missed in violation of this section during the quarter covered by the report, and the total number of meals and rest periods required during the quarter. The reports are due to L&I 30 calendar days after the conclusion of the calendar quarter. The new quarterly report provisions do not apply to hospitals defined in RCW 70.41.420(7)(b)(iv) until July 1, 2026.

Section 9 creates a new section in Chapter 49.12 RCW (Industrial Welfare):

- Requires L&I to enforce the provisions of RCW 49.12.480, including reviewing reports submitted under RCW 49.12.480(2) to ensure they are timely, complete, and on the department-issued form.
- Upon L&I's review of the employer's report due, if L&I determines that an employer is not 80 percent compliant with the meal and rest break requirements, and more than 20 percent of the required meals and rest periods were missed, or if an employer fails to

properly submit a report, L&I may offer to provide technical assistance to the employer, although until June 30, 2026, the L&I must offer technical assistance to the employer.

- Beginning July 1, 2026, if L&I finds that an employer has exceeded the quarterly threshold for missed meals and rest periods, L&I must impose a penalty. The provisions of this subsection do not apply to employers who are hospitals defined in RCW 70.41.420(7)(b)(iv) until July 1, 2028.
- The penalties assessed by L&I each time the L&I imposes a penalty are as follows:
 - For hospitals certified as critical access hospitals under 42 13 U.S.C. Sec. 1395i-4, or with up to 25 licensed beds: \$5,000;
 - For hospitals with 26 to 99 licensed beds: \$10,000;
 - For hospitals with 100 to 299 beds: \$15,000; and
 - For hospitals with 300 or more beds: \$20,000.
 - If L&I imposes a penalty in a third consecutive quarter, L&I must double the penalty amounts for subsequent consecutive quarters. An employer in compliance for a single quarter is no longer subject to the penalties for subsequent violations.
- An employer may not take any adverse action against employees for exercising any right under RCW 49.12.480.
 - L&I must investigate complaints related to compliance.
 - If the director determines that an employer has committed a violation, the director may:
 - Order payment to L&I of a civil penalty of not more than \$1,000 for an employer's first violation and not more than \$5,000 for any subsequent related violation;
 - Order appropriate relief that includes any earnings the employee did not receive due to the employer's adverse action, including interest of one percent per month on all earnings owed. The earnings and interest owed will be calculated from the first date earnings were owed to the employee;

- Order the employer to restore the employee to the position of employment held by the employee when the retaliation occurred, or restore the employee to an equivalent position with equivalent employment hours, work schedule, benefits, pay, and other terms and conditions of employment.
- An employer must provide valid data in reports required under RCW 49.12.480(2). Valid data means that the data included in the reports is attested to by an employer's designee and has not been inappropriately manipulated or modified; and employees must be free from coercion into inaccurate recording of their meal and rest periods under RCW 49.12.480.
 - L&I must investigate complaints related to compliance with that are facially based on the actual knowledge of the complaining party. The director may require the testimony of witnesses and the production of documents as part of the director's investigation.
 - If the director determines that an employer committed a violation, the director may:
 - Order the employer to pay the department a civil penalty of not more than \$1,000 for an employer's first violation and not more than \$5,000 for any subsequent related violation; and
 - Order appropriate relief that includes any earnings the employee did not receive due to the employer's adverse action, including interest of one percent per month on all earnings owed. The earnings and interest owed will be calculated from the first date earnings were owed to the employee.
- L&I may investigate and take appropriate enforcement action under this section without any complaint if L&I discovers data in the course of an investigation or inspection.
- Any appeals of L&I's decisions, including assessed penalties, and collection or deposit of civil penalties under this section must be pursuant to sections 12 through 14 of this act.
- For the purposes of this section, "coercion" means compelling or inducing an employee to engage in conduct which the employee has a legal right to abstain from or to abstain from the conduct which the employee has a legal right to engage in.

Section 10 amends RCW 49.28.140 to stipulate that mandatory, prescheduled on-call time may not be used to begin at a time when the duration of the procedure is expected to exceed the employee's regular scheduled hours of work, except for the case of a non-emergent patient procedure for which, in the judgment of the provider responsible for the procedure, a delay would cause a worse clinical outcome.

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

Section 12 creates a new section in Chapter 49.12 RCW (Industrial Welfare):

- L&I will investigate complaints of violation against RCW 49.28.140. There is a three-year limitation from violation date. Determinations include: Citation and Notice of Assessment, or determination of compliance. Determinations are to be sent using mail tracking.
- Closure letters are issued when no violation is found.
- 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.
- L&I may not assess a civil penalty if the employer reasonably relied on a: rule related to any of the requirements of RCW 49.28.140; a written order, ruling, approval, opinion, advice, determination, or interpretation of the director; or an interpretive or administrative policy issued by L&I and filed with the Office of the Code Reviser. In accordance with the L&I's retention schedule obligations under Chapter 40.14 RCW, L&I shall maintain a complete and accurate record of all written orders, rulings, approvals, opinions, advice, determinations, and interpretations for purposes of determining whether an employer is immune from civil penalties.
- Civil penalties can be waived if L&I determines corrective action was taken to resolve the complaint.
- Civil penalties are deposited in the Supplemental Pension Fund established under RCW 51.44.033.

Section 13 creates a new section in Chapter 49.12 RCW (Industrial Welfare):

- Citations and Notice of Assessments or determinations of compliance under section 12 can be appealed to the L&I director within 30 days of issuance. If no appeal is received within 30 days of issuance, the citation and Notice of Assessment or determination of compliance becomes final and binding without subject to further appeal.
- Notice of Appeal shall stay the effectiveness of the citation and Notice of Assessment or determination of compliance pending final review.
- 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.
- The director shall issue final orders when appeals on initial orders are received.
- Orders not appealed within 30 days are final and binding without subject to further appeal.
- An employer who fails to allow adequate inspection of records in an investigation by L&I under this section within a reasonable time period may not use such records in any appeal under this section to challenge the correctness of any determination by L&I of the penalty assessed.

Section 14 creates a new section in Chapter 49.12 RCW (Industrial Welfare) stipulating collections of unpaid citations assessing civil penalties under sections 11 through 13 will be pursuant to RCW 49.48.086.

Section 15 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 review current and historical staffing plans filed with DOH. DOH shall cooperate with the institute to facilitate access to data or other resources necessary to complete the analysis require by this section. The institute must provide a report on its findings to DOH and relevant committees of the legislature by June 30, 2024.

Section 16 repeals 2017 c 249 s 4 (uncodified).

Section 17 makes this act effective July 1, 2024, except for sections 1, 3, 15, and 16.

Section 18 makes section 16 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.

- Section 4 allows L&I to issue a civil penalty of \$50,000 per 30 days until a hospital begins to follow a corrective plan of action that has been approved.
 - L&I does not have data predicting how long it will take hospitals to follow an approved corrective action plan. Therefore, the cash receipt estimate for this section is **indeterminate**.
- Section 9 requires L&I to impose a penalty beginning July 1, 2026, if L&I finds that an employer has exceeded the quarterly threshold of missed meals and rest periods. Penalty amounts are based on hospital size and there are escalated penalty amounts for repeat violations.
 - L&I does not have a way to estimate frequency of violations per hospital size. Therefore, the cash receipt estimate for this section is **indeterminate**.
- Section 12 requires L&I to impose a penalty if L&I finds a violations of RCW 49.28.140 (overtime). Penalty amounts are escalated for repeat violations.
 - L&I does not have data predicting how many repeat violations there might be associated with this bill. Therefore, the cash receipt estimate for this section is **indeterminate**.

II. C – Expenditures

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

- 13.5 FTEs, Industrial Relations Agent (IRA) 3, permanent. Duties include conducting investigations into reports of improper medical staffing violations, additional meal and rest break violations, and additional overtime violations. Based on an informal understanding with DOH (that will be memorialized in the memorandum of understanding), L&I will be responsible for investigations related to section 4(1)(a)(iv) that do not pertain to patient safety. L&I assumes that the 13.5 FTEs will phase in based on the effective dates of the bill. Five and a half (5.5) 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 violations.
 - 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 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.
 - 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.
 - While L&I will not be able to cite employers under each of the estimated 500 hospital staffing complaints received, investigations will be required to screen complaints, determine if hospital staffing committees have

- resolved the reported issues, and determine if there has been a trend of non-compliance.
- These staff will also be trained to monitor and enforce compliance of corrective action plans in 2027. DOH assumes a 50 percent compliance rate, based on DOH's 2022 Legislative Report, for a total of 250 corrective action plan referrals within the 500 complaints.
- L&I anticipates an additional 23 complaints per year related to overtime violations.
 - In fiscal year 2022, L&I receive 23 healthcare facility employee overtime complaints.
 - It is assumed this number will double given the new expanded prescheduled on call provisions.
 - 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 112 meal and rest break out-of-compliance reports per year.
 - It is believed there will be 93 hospitals who will be required to provide L&I quarterly reports of meal and rest break violations. (93 hospitals x 4 reports per year = 372 reports per year)
 - It is estimated that 30 percent of the 372 reports will be non-compliant and lead to compliance action, equaling 112 out-of-compliance reports per year (372 total reports x 0.30 = 112 out-of-compliance reports per year). This may change during ongoing review of the reports.
 - Workload indicators show a Healthcare Overtime Specialist can investigate 60 complaints on an annual basis. This bill would add approximately 804 complaints/referrals (500 staffing and corrective action plan, 23 overtime, 169

meal and rest break, and 112 meal and rest break quarterly non-compliant reports) on an annual basis.

- 60 complaint investigations per year by an IRA3 would require an additional 13.5 FTEs. (804 complaints / 60 investigations per IRA3 per year = 13.4 FTEs)
 - Meal and rest break provisions and overtime provisions take effect July 1, 2024. Therefore, L&I would need to hire and train the 5.5 IRA3s to be ready to begin investigations and enforcement. This necessitates an April 1, 2024, start date.
 - The remaining 8.0 IRA3s will be needed April 1, 2025, for complaints related to staffing violations.
- 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.
 - 804 complaints are expected annually.
 - L&I assumes 30 percent of 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.
 - 241 citations are expected annually. (804 complaints x .30 citation rate = 241)
 - Workload indicators show an IRA3 can issue about 192 notice of assessments and citations on an annual basis.
 - Therefore, 1.0 IRA3 FTE is needed. (241 citations / 192 citations per IRA3 per year = 1.3 FTE,
 - Meal and rest break provisions and overtime provisions 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.
- 1.0 FTE, Revenue Agent 2, permanent, starting April 1, 2024. Duties include collection of final and binding citations issued for violations. In addition, this position will perform

duties including: evaluation of assets in connection in financial applications, business records, and financial statements for long-term payment plans; and monitor all bankruptcy suspensions. This is based on the following assumptions:

- 804 complaints are expected annually.
 - L&I assumes 30 percent of complaints will result in a citation.
 - 241 citations are expected annually. (804 complaints x .30 citation rate = 241)
 - The average RA2 handles 300 citations per year.
 - Therefore, 1.0 RA2 FTE is needed. (241 citations / 300 per RA2 = 0.8 FTE, rounded up to 1.0 based on the additional duties listed above)
- 4.5 FTEs, Customer Service Specialist (CSS) 2, permanent. Duties include accepting and inputting complaints for staffing violations, healthcare overtime, and meal and rest breaks; tracking daily accruing penalties and corrective action plans; answering phone calls; and answering email inboxes. Hospital staffing complaints will be referred to L&I from DOH. DOH has indicated there is not an electronic way to share complaints so these referrals will need to be manually entered by staff. L&I assumes that the 4.5 FTEs will phase in based on the effective dates of the bill. One (1.0) CSS2 FTE will be needed April 1, 2024, due to the overtime and meal and rest break provisions. The remaining (3.5) CSS2 FTEs will be needed April 1, 2025, for when hospital staffing referrals start getting referred to L&I from DOH on July 1, 2025.
 - 804 complaints are expected annually.
 - The average CSS2 can input 171 complaints on an annual basis.
 - Therefore, 4.5 CSS2 FTEs are needed. (804 complaints / 171 complaints per CSS2 per year = 4.7 FTEs)

Staffing – Administration & Consultation

- 1.0 FTE, Administrative Regulations Analyst (ARA) 4, permanent, starting July 1, 2023. Duties include consultation with DOH and the advisory committee for requirement to submit annual staffing plans, consultation and approvals of proposed corrective action plans, working with DOH on a memorandum of understanding and a formal enforcement agreement, working with stakeholders, writing policies that might be controversial, and

forms development. This version of the bill requires ongoing technical assistance, participation in an advisory committee, and also ongoing policy interpretation and development.

- 1.0 FTE, Occupational Nurse Consultant (ONC), permanent, starting July 1, 2023. Duties include consulting on minimum staffing requirements, proposed corrective action plans, and ongoing technical assistance. 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 policy development. The ONC will need to start at the same time as the ARA4 because having a medically-trained professional present during the 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.
- 1.0 FTE, WMS2, permanent, starting July 1, 2023. Duties include administering, overseeing, and directing all program activities; providing technical guidance; supporting 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 multiple IRA4s, one ARA4, and one ONC.
- 2.0 FTEs, Industrial Relations Agent (IRA) 4, permanent. Duties include supervising IRA3s and CSS2s, 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 13.5 IRA3s and 4.5 CSS2s, two additional IRA4s would be needed. One will be needed starting January 1, 2024, to help with the hiring and training of the staff needed on April 1, 2024. The second one will be needed

starting January 1, 2025, to help with the hiring and training of the staff needed on April 1, 2025.

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 a Case/Complaint Management. 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. 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)

Attorney General – Legal Services

\$27,000 is needed in fiscal year 2024, \$162,000 is needed in fiscal year 2025, \$433,000 is needed in fiscal year 2026, and \$674,000 is needed each year beginning in fiscal year 2027 for legal services. Providing legal advice on implementation efforts and handling the anticipated new appeals will require an additional 0.1 Assistant Attorney General (AAG) in fiscal year 2024, 0.6 AAG in fiscal year 2025, 1.6 AAG in fiscal year 2026, and 2.5 AAG each year beginning in fiscal year 2027.

Administrative Hearings

\$34,000 is needed in fiscal years 2025 and 2026 (12 appeals), \$91,000 is needed in fiscal year 2027 (31 appeals), and \$143,000 is needed each year beginning in fiscal 2028 (49 appeals) 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	36,000	93,000	143,000	143,000	143,000	143,000
609	Medical Aid	6,000	16,000	25,000	25,000	25,000	25,000
	Total:	\$42,000	\$109,000	\$168,000	\$168,000	\$168,000	\$168,000

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

None.

Individual State Agency Fiscal Note

Bill Number: 5236 E 2S SB	Title: Hospital staffing standards	Agency: 300-Department of Social and Health Services
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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:

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:	Phone:	Date: 03/09/2023
Agency Preparation: Sara Corbin	Phone: 360-902-8194	Date: 03/14/2023
Agency Approval: Dan Winkley	Phone: 360-902-8236	Date: 03/14/2023
OFM Review: Arnel Blancas	Phone: (360) 000-0000	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.

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 January 1, 2024. Sets forth rules for composition of the committee as well as duties and record requirements. Requirements include submitting an annual hospital staffing plan. Additional staffing relief must be provided if necessary to ensure committee members are able to attend hospital staffing committee meetings. Starting January 1, 2025, final staffing plans must be submitted to the Department of Health (DOH), and annually thereafter. All written complaints made to the committee must be reviewed. Committee must also file a charter with DOH by July 1, 2024.

Section 4 – Amends RCW 70.41.425 – Requires DOH to investigate complaints submitted as violations of RCW 70.41.420. Beginning Jan 1, 2027 DOH shall review all reports submitted under 70.41.420(7)(b)(I) to ensure compliance. If DOH determines there was a violation, such as a hospital fails to submit or submits but fails to follow a staffing plan, committee charter, or corrective plan of action, DOH may impose civil penalties.

New Section 5(2) and 6(2) Include provisions that allow for data sharing, including hospital staffing plans, reports submitted under RCW 70.41.420(7), and hospital staffing committee complaints submitted.

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 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 E2SSB will have an indeterminate fiscal impact to the Department of Social and Health Services (DSHS), Behavioral Health Administration (BHA).

Indeterminate Fiscal Impacts

DSHS BHA operates within appropriated budget authority and currently does not have an approved staffing plan, therefore, the potential costs of implementing an agreed upon staffing plan is indeterminate. If additional staffing is needed as part of an approved staffing plan, funding will need be requested and secured through the state budget process before implementation.

If unable to adopt a staffing plan, the state hospitals will be subject to potential fines. No costs are assumed or illustrated for any potential associated fine costs (section 3 and 4) that can be imposed upon BHA at this time.

No costs are assumed or illustrated for any potential Information Technology (IT) system impact support needs (section 3, 4, 5, and 6).

Determinate Fiscal Impact

Nursing Committee Impacts: Section 3 states that at least 50 percent 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 as a representative of 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 FYs

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)

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 E 2S SB	Title: Hospital staffing standards	Agency: 303-Department of Health
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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	12.8	20.3	16.6	20.3	20.3
Account					
General Fund-State 001-1	1,892,000	0	1,892,000	0	0
General Fund-Private/Local 001-7	0	2,895,000	2,895,000	5,701,000	5,518,000
Total \$	1,892,000	2,895,000	4,787,000	5,701,000	5,518,000

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:	Phone:	Date: 03/09/2023
Agency Preparation: Donna Compton	Phone: 360-236-4538	Date: 03/15/2023
Agency Approval: Kristin Bettridge	Phone: 3607911657	Date: 03/15/2023
OFM Review: Breann Boggs	Phone: (360) 485-5716	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.

This fiscal note has changed from the previous fiscal note on 5236 SSB. This engrossed second substitute bill removes the definition which defined “department” as the Department of Labor and Industries (LNI) and removes the requirement for the Department of Health (department) to participate as a nonvoting ex officio member for the negotiated rulemaking committee and a nonvoting ex officio member for the advisory committee on hospital staffing. This bill requires the department to establish an advisory committee on hospital staffing in consultation with LNI, it directs the department and LNI to investigate complaints alleging violation of the nurse staffing committee statute, and directs the department to collect, review, and post staffing committee charters, staffing plans, and corrective action plans when required.

Section 1: Adds a new chapter to 43.70 RCW (Department of Health) directing the department, in consultation with LNI, to establish an advisory committee on hospital staffing.

Section 3: Amends RCW 70.41.420 (Nurse Staffing Committee) requiring each hospital to report to the department on a semiannual basis the accurate percentage of nurse staffing assignments in a patient care unit that are out of compliance with the hospital’s nurse staffing plan starting July 31, 2026. It requires the hospital to file a report with the department when they are in compliance with less than 80 percent of the nurse staffing assignments in a month and to report to the department regarding lack of compliance. The department must develop forms for these reports by October 1, 2024, and investigate the validity of the reports if indicated on the form. This section requires hospital staffing committees to file a charter with the department and outlines charter requirements and directs the department and LNI to provide technical assistance to hospital staffing committees to assist with compliance with this section.

Section 4: Amends RCW 70.41.425 (Nurse staffing—Department investigations) directing the department and LNI to investigate complaints alleging violation of RCW 70.41.420 (Nurse Staffing Committee). It directs the department to require a corrective action plan from a hospital if the department determines that there have been multiple unresolved violations of this RCW of similar nature within 30 days prior to receipt of the complaint. It requires the department to review each hospital staffing plan and post all staffing plans, charters and semi-annual compliance reports required under Section 3 on the department’s website. Beginning January 1, 2027, this section requires hospitals to submit corrective action plans within 45 calendar days of a report to the department or an investigation that finds that the hospital is not in compliance with RCW 70.41.420 (Nurse Staffing Committee). This section allows the department to take administrative action with penalties up to \$10,000 per 30 days for failure to comply if a hospital fails to submit a staffing plan, staffing committee charter, or correction action plan by the appropriate deadline and allows hospitals a process to appeal penalties assessed under this section.

Section 5: Adds a new chapter to 70.41 RCW (Hospital Licensing and Regulation) directing the department and LNI to establish a formal agreement that identifies the roles of the two agencies with respect to the oversight and enforcement of RCW 70.41.420 (Nurse Staffing Committee) and RCW 70.41.425 (Nurse staffing—Department investigations), and to allow for data sharing to the extent possible.

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.

Current law RCW 43.70.250 (License fees for professions, occupations, and businesses) requires the department to charge a fee to generate sufficient revenue to fully support the costs of administering its licensing activities. The department estimates the acute care hospital program’s current operating costs (not including work related to this bill) will exceed revenue in FY 2024. The department projects the hospital regulatory program will have a beginning fund balance of \$1,314,000, earn \$3,170,000 in estimated revenue, and incur \$3,500,000 in expenses for FY 2024. Should this bill pass as

written, the initial costs in FY 2024 to implement this bill will cause the program to drop below its target reserve of \$700,000 (20%) and will result in a fund balance deficit of roughly (\$900,000). Although the department will promptly pursue a fee increase to cover the additional program expenditures, there will be a period where the department is implementing the bill but does not have the additional fee revenue in place. Therefore, the department requests general fund state to cover expenses while fees are established to support work on this bill. After fees are implemented, the department will monitor the program's fund balance over time and will adjust fees as needed to cover all program expenditures.

Section 4(6) allows the department to take administrative action with penalties up to \$10,000 per 30 days for failure to comply if a hospital fails to submit a staffing plan, staffing committee charter, or correction action plan by the appropriate deadline and allows hospitals a process to appeal penalties assessed under this section. Revenue from these fines must be deposited in the supplemental pension fund established under RCW 51.44.033 (Supplemental Pension Fund). The department will submit any fines collected under this section to the appropriate fund.

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.

Assumptions

The requirements of this bill would apply to 93 acute care hospitals and 2 state hospitals. Some sections of the bill do not apply to 45 hospitals that either have fewer than 25 licensed beds, are certified by the centers for Medicare and Medicaid as a sole community hospital, or are located on an island operating within a public hospital district in Skagit County and are therefore not subject to those reporting requirements.

The department assumes 250 complaints in FY 2024 and 500 complaints in FY 2025 and ongoing. This assumption is based on the addition of nursing assistants certified to the definition of nursing staff which increases the number of workers covered by the staffing plan who have the ability to file a complaint for failure to follow the plan or for shift-to-shift adjustments with the staffing committee, and with the department for unresolved complaints. The definition of nursing staff maintains "unlicensed assistive nursing personnel providing direct patient care", which was previously considered to cover nursing assistants certified, but with their specific inclusion the department is interpreting this language to cover other unlicensed personnel providing patient care which would include staff who assist in transporting patients, turning patients and assisting in other patient care activities.

Program

This bill requires the department to establish an advisory committee on hospital staffing by September 1, 2023, meeting at least once per month to consider innovative hospital staffing and care deliver models, and to advise the department's program on its development of uniform hospital staffing plan forms and technical assistance. In addition to submitting staffing committee charters to the department, this bill requires hospitals to submit semiannual reports regarding the accurate percentage of nurse staffing assignments that were out of compliance with the nurse staffing plan, report if compliance is less than 80 percent in a month, and submit a corrective action plan when required. This bill requires the department to review and post these documents and reports, provide technical assistance to hospital staffing committees to assist with compliance when not strictly prohibited, and refer violations to enforcement. The department must also establish a data sharing agreement with LNI and establish a formal agreement identifying the roles and responsibilities of the two agencies with respect to the oversight and enforcement of RCW 70.41.420 (Nurse Staffing Committee) and RCW 70.41.425 (Nurse staffing—Department investigations). Costs include staff and associated expenses (including goods and services, travel, intra-agency, and indirect charges), a contracted consultant to assist with the facilitation of the hospital staffing advisory committee (\$126,000 per year), and data sharing platform subscription fees.

FY 2024 costs will be 3.7 FTE and \$624,000 (GF-S).

FY 2025 costs will be 3.7 FTE and \$625,000 (GF-L).

FY 2026 costs will be 3.6 FTE and \$613,000 (GF-L).

FY 2027 costs will be 3.6 FTE and \$548,000 (GF-L).

FY 2028 and ongoing, costs will be 3.6 FTE and \$487,000 (GF-L) each year.

Health Technology Solutions

Section 4 & 5: Configuration in department’s Healthcare Enforcement and Licensing Modernization System will require 44 hours from the integration vendor at a rate of \$262.50 per hour. This bill requires updates to compliance tracking fields, additional closure codes and workflows, more specific case natures and alleged violations, and user defined fields. This configuration must also support data sharing between the department and LNI. Work will include the initial vendor configuration and agency staff time for ongoing maintenance.

FY 2024 costs will be \$19,000 (GF-S).

FY 2025 and ongoing, costs will be \$4,000 (GF-L) each year.

Enforcement

Section 4: Directs the department and LNI to investigate complaints alleging violation of RCW 70.41.420 (Nurse Staffing Committee). Based on experience with nurse staffing committee complaints and the assumptions noted for this bill, the department is estimating receiving 250 complaints in FY 2024 and 500 complaints a year ongoing. With an investigation authorization rate of 50 percent, the department expects a total of 125 investigations in the first year and 250 investigations per year ongoing.

The complaint response process includes five steps: 1) intake, 2) assessment, 3) investigation, 4) case disposition, and 5) adjudication. Staff review the complaint, identify the history of the facility complained about, and help assess whether an investigation is needed. The investigator obtains information about the complaint and the respondent and then, prepares a report detailing the findings. After investigation, the disciplining authority decides whether to pursue legal action. Staff attorneys, paralegals, assistant attorney general and other staff work to develop the legal documents and charge the violation. Most cases are settled, and the staff attorney manages that process. If the respondent asks for a hearing, staff must schedule the hearing, and the health law judge considers all legal motions, presides over the hearing, and drafts the final order. Also, the Office of the Attorney General (\$65,000 in the first year and \$130,000 each year thereafter) will represent the department at hearings and may provide advice throughout the enforcement process.

FY 2024 costs will be 9.1 FTE and \$1,249,000 (GF-S).

FY 2025 costs will be 16.6 FTE and \$2,266,000 (GF-L).

FY 2026 and FY 2027 costs will be 16.7 FTE and \$2,266,000 (GF-L).

FY 2028 and ongoing, costs will be 16.7 FTE and \$2,268,000 (GF-L) each year.

Total costs to implement this bill are:

FY 2024 costs will be 12.8 FTE and \$1,892,000 (GF-S).

FY 2025 costs will be 20.3 FTE and \$2,895,000 (GF-L).

FY 2026 costs will be 20.3 FTE and \$2,883,000 (GF-L).

FY 2027 costs will be 20.3 FTE and \$2,818,000 (GF-L).

FY 2028 and ongoing, costs will be 20.3 FTE and \$2,759,000 (GF-L) each year.

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	1,892,000	0	1,892,000	0	0
001-7	General Fund	Private/Local	0	2,895,000	2,895,000	5,701,000	5,518,000
Total \$			1,892,000	2,895,000	4,787,000	5,701,000	5,518,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	12.8	20.3	16.6	20.3	20.3
A-Salaries and Wages	1,092,000	1,746,000	2,838,000	3,487,000	3,488,000
B-Employee Benefits	399,000	636,000	1,035,000	1,271,000	1,272,000
C-Professional Service Contracts	138,000	126,000	264,000	189,000	
E-Goods and Other Services	146,000	259,000	405,000	515,000	518,000
G-Travel	7,000	14,000	21,000	28,000	28,000
J-Capital Outlays	44,000	8,000	52,000		
T-Intra-Agency Reimbursements	66,000	106,000	172,000	211,000	212,000
Total \$	1,892,000	2,895,000	4,787,000	5,701,000	5,518,000

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 ASST 3	50,592	0.5	0.5	0.5	0.5	0.5
Fiscal Analyst 2	53,000	2.4	3.8	3.1	3.8	3.8
FORMS & RECORDS ANALYST 2	53,100	1.5	2.9	2.2	2.9	2.9
FORMS & RECORDS ANALYST 3	60,156	0.4	0.8	0.6	0.8	0.8
HEALTH SERVICES CONSULTAN 1	55,872		0.1	0.1	0.1	0.1
HEALTH SERVICES CONSULTAN 3	75,120	1.2	2.5	1.9	2.5	2.5
HEALTH SERVICES CONSULTAN 4	82,896	1.1	1.1	1.1	1.1	1.1
Health Svcs Conslt 1	53,000	1.6	2.5	2.1	2.5	2.5
NURSING CONSULTANT, INSTITUTIONAL	133,512	2.0	4.0	3.0	4.0	4.0
NURSING CONSULTATION ADVISOR	147,360	1.0	1.0	1.0	1.0	1.0
PARALEGAL 2	71,520	0.1	0.1	0.1	0.1	0.1
WMS02	114,360	1.0	1.0	1.0	1.0	1.0
Total FTEs		12.8	20.3	16.6	20.3	20.3

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 E 2S SB	Title: Hospital staffing standards	Agency: 310-Department of Corrections
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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:	Phone:	Date: 03/09/2023
Agency Preparation: Amanda Pierpoint	Phone: (360) 725-8428	Date: 03/14/2023
Agency Approval: Ronell Witt	Phone: (360) 725-8428	Date: 03/14/2023
OFM Review: Cynthia Hollimon	Phone: (360) 810-1979	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.

Engrossed Second Substitute Senate Bill 5236

An act relating to improving workplace standards for certain hospital staff by expanding staffing committees to include additional nursing staff, modifying staffing committee requirements, and clarifying standards and enforcement regarding mandatory overtime and uninterrupted meal and rest breaks; amending RCW 70.41.410, 70.41.420, 70.41.425, 70.41.130, 49.12.480, 49.28.140, and 49.28.150; adding a new section to chapter 43.70 RCW; adding a new section to chapter 70.41 RCW; adding new sections to chapter 49.12 RCW; creating a new section; repealing 2017 c 249 s 4 (uncodified); prescribing penalties; providing effective dates; providing an expiration date; and declaring an emergency.

Modifies nurse staffing committees and staffing plan requirements.

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

Section 17 states that except for sections 1, 3, 15, and 16 of this act, this act takes effect July 1, 2024.

Section 18 states that Section 16 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and 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.

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 assumes no fiscal impact for this bill due to DOC historically not being considered a hospital as defined in RCW 70.41.020 and does not foresee a fiscal impact relating to those sections unless consideration is changed to include DOC health care facilities as hospitals.

DOC inpatient units (IPU) are not “hospitals” 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 1-8 of this bill do not apply to DOC because DOC does not operate “hospitals” as defined under RCW 70.41, which in turns also means our employees would not fall under the provisions of this bill.

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 E 2S SB	Title: Hospital staffing standards	Agency: 360-University of Washington
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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	1.0	2.6	1.8	2.6	2.6
Account					
University of Washington Hospital-Non-Appropriated 505 -6	278,501	352,252	630,753	704,504	704,504
Total \$	278,501	352,252	630,753	704,504	704,504

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:	Phone:	Date: 03/09/2023
Agency Preparation: Charlotte Shannon	Phone: 2066858868	Date: 03/14/2023
Agency Approval: Charlotte Shannon	Phone: 2066858868	Date: 03/14/2023
OFM Review: Ramona Nabors	Phone: (360) 742-8948	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.

The engrossed second substitute SB 5236 significantly changes the first substitute bill, please see the section summaries below, in addition to the revised fiscal analysis in the expenditures section.

Overall, this bill expands break and overtime laws for certain health care workers, expands staffing committees, and creates new requirements related to staffing plans. The bill also creates an enforcement structure for these new requirements, including monetary penalties for violations.

Section 1. Statewide Advisory Committee on Hospital Staffing

This section requires DOH, in consultation with L&I, to establish an advisory committee by September 1, 2023. The committee will include six hospital representatives nominated by the Washington State Hospital Association and six labor representatives nominated by labor unions. The committee will advise uniform reporting form development and other work until July 1, 2030.

Section 2. Definitions

This section adjusts “nurse staffing committees” to “hospital staffing committees” and broadens the staff included in the current staffing committee law to include certified nursing assistants. 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:

- Expansion of committee to include certified nursing assistants.
- Requires the hospital staffing committee to be comprised of 50% non-supervisory and non-managerial nursing staff (selected by union representatives or peers) and 50% to be determined by the hospital administration.
- Requires staffing relief for committee attendees
- Requires 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
- Requires staffing plans and revised staffing plans to be approved by a simple majority of the hospital staffing committee and delivered to the hospital CEO by July 1, 2024, and annually thereafter, and retains the most recent hospital staffing plan until a new staffing plan is adopted by hospital administration.
- Hospitals are required to staff to hospital staffing plans effective July 1, 2025, except in cases of unforeseeable emergent circumstances
- Requires hospitals to adopt policies and procedures to monitor and document compliance with staffing plans by October 1, 2024, and submit semiannual reports to DOH about the percentage of nurse staffing assignments out of compliance with staffing plans beginning January 1, 2026.
- Requires hospitals to submit reports to DOH about non-compliance with staffing plans if they fail to meet a threshold of 80% for a month within seven days. DOH is required to develop forms by October 1, 2024.
- Requires staffing committee to review all complaints submitted
- Requiring the staffing committee to file a charter with the DOH, including information on roles and responsibilities, committee processes, standards, and policies

Section 4. DOH and L&I Investigations

This section broadens the circumstances under which complaints can be filed and when investigations can be initiated by DOH or L&I. Instead of assessing fines of \$100 per day for a staffing plan deviation, this section now assessed fines of \$50,000 per 30 days for failure to follow a corrective action plan. Imposes new penalties of up to \$10,000 per 30 days for failure to submit a staffing plan, a staffing committee charter, or corrective action plan by relevant deadlines.

Section 5 and 6. DOH and L&I Formal Agreements

These sections direct DOH and L&I to jointly establish a formal agreement to identify roles of each agency with respect to oversight and enforcement of staffing plans and investigation of complaints. The agreement will include data sharing of materials submitted to DOH.

Section 7. DOH Violations

This section allows DOH to apply acute care hospital administrative actions to violations arising from L&I findings related to failure to comply with a hospital staffing corrective action plan.

Section 8. Meal and Rest Breaks

This section expands meal and rest break requirements to all acute care hospital employees, reduces existing exceptions, and permits employees to bundle meal and rest breaks upon agreement with their supervisor. Beginning October 1, 2024, requires quarterly reporting to L&I on the total meal and rest periods missed in violation of this law and the total number of meal and rest breaks required during the quarter.

Section 9. Meal and Rest Break Enforcement

This section requires L&I to enforce meal and rest break law, including reviewing compliance reports. Technical assistance is available through June 30, 2026, if hospitals are not at least 80% compliant or fail to report. Beginning July 1, 2026, L&I may offer technical assistance but will impose a quarterly penalty of \$5,000 for critical access hospitals or hospitals with up to 25 licensed beds, \$10,000 for hospitals with 26-99 licensed beds, \$15,000 for hospitals with 100 to 299 beds, and \$20,000 for hospitals with 300 or more beds. If penalties are imposed for a third consecutive quarter, L&I must double the penalty amounts for subsequent consecutive quarters. Hospitals are prohibited from retaliating against employees for exercising meal or rest break rights and L&I can impose violations for retaliatory actions. Fines of \$1,000 can be imposed for hospitals submitting invalid data (increased for subsequent violations).

Section 10. Prohibition on Mandatory Overtime and Pre-Scheduled On-Call

This section prohibits an employer from using mandatory, pre-scheduled on-call for non-emergent procedures scheduled at a time when the duration of the procedure is expected to exceed the employee's regular scheduled hours of work. An exception is made when the provider responsible for the non-emergent patient procedure believes a delay would cause a worse clinical outcome.

Section 11. 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 12 through 14.

Section 12. 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. Penalties may not be imposed if the hospital reasonably relied on written orders, rulings, approvals, opinions, advice, determinations, interpretations or administrative policies issued by L&I and filed with the code reviser. L&I can waive or reduce the penalty if the director believes the hospital has taken corrective action to resolve the violation.

Section 13. Appeal of Citations Under This Chapter

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

Section 14. Collections of Unpaid Citations

This section establishes that unpaid citations will be collected pursuant to RCW 49.48.086.

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 a 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, Compliance, and Reporting

Starting January 1, 2024, the committee is expanded to include certified nursing assistant committee members, 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. An equal number of administrative participants are added to the committee for balance. Additional responsibilities for all committee staff include reviewing and responding to all complaints on a new timeline, reviewing CEO feedback on draft staffing plans, developing policies and procedures for reporting, semi-annual compliance reporting to the Department of Health, and developing and filing committee charters with the Department of Health. In addition to these compliance requirements, the hospitals must also submit quarterly reports related to meal and rest breaks, including the total number taken and number missed, starting July 1, 2024.

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 an additional .26 FTE in FY24 due to an implementation date for this Section of January 1, 2024 (FY24), .52 FTE in FY25 and ongoing, and impacts 6 different job classes.

Our model assumes a 0.5 FTE analyst at both UW Medical Center (UWMC) and Harborview Medical Center (HMC) to provide support on the compliance reporting for the staffing committee and meal and rest breaks. We assume .24 FTE in FY24 to support the staffing committee, ramping up to 1.0 FTE in FY25 to prepare for compliance and for meal and rest break reporting. This will cost \$35,858 in FY24, and \$143,433 in FY25 and ongoing.

Additional administrative support is also needed for the staffing committee to support longer meetings, communications with the staffing committee, and the additional work of filing and reporting to the Department of Health. Our model assumes a 0.5 FTE administrative assistant at both UWMC and HMC to provide this support beginning January 1, 2024, for a cost of \$38,469 in FY24, and \$76,937 in FY25 and ongoing.

TOTAL DETERMINANT FISCAL IMPACTS FOR STAFFING COMMITTEE, COMPLIANCE, AND REPORTING:

FY 24: \$278,501

FY25 and ongoing: \$314,359

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

Citations and Fines

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

- Monthly fines of up to \$10,000 can be imposed if hospitals fail to submit a staffing plan, staffing committee charter, or a corrective action plan by a relevant deadline.
- Failing to follow a corrective action plan may result in civil penalties of \$50,000 per month until the hospital begins to follow its corrective action plan related to staffing plan deviations.
- For violations of mandatory overtime requirements, unless otherwise noted, 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.
- Quarterly penalties of \$20,000 will be imposed on hospitals with 300 or more beds for meal and rest break non-compliance (effective July 1, 2026). Penalties are doubled after three consecutive quarters. Meal and rest break rights apply to more employees.
- Penalties are imposed for retaliating against employees exercising their meal and rest break rights, and for inappropriate manipulation or modification of data. The penalties can be up to \$1,000 for the hospital’s first violation and no more than \$5,000 for subsequent related violations. Lost earnings will be due to the employee plus 1% interest per month.

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.

Appeals

This legislation creates a right to appeal L&I 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.

TOTAL FISCAL IMPACTS FOR E2SSB 5236:

DETERMINATE:

There are significant determinate impacts driven by expansion and changes to staffing committees and changes to reporting requirements.

- FY24: \$278,501
- FY25 and ongoing: \$352,252

INDETERMINATE:

There are significant indeterminate impacts driven by:

- New citations and fines
- 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	278,501	352,252	630,753	704,504	704,504
Total \$			278,501	352,252	630,753	704,504	704,504

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	1.0	2.6	1.8	2.6	2.6
A-Salaries and Wages	202,317	258,274	460,591	516,548	516,548
B-Employee Benefits	76,184	93,978	170,162	187,956	187,956
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 \$	278,501	352,252	630,753	704,504	704,504

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 (UWMC)	72,384	0.2	0.5	0.4	0.5	0.5
Administrative Assistant 3 (HMC)	54,517	0.2	0.5	0.4	0.5	0.5
ANALYST (E S 10) (HMC)	118,290	0.1	0.5	0.3	0.5	0.5
Analyst (ES 10) (UWMC)	118,290	0.1	0.5	0.3	0.5	0.5
DIRECTOR (E S 11) (HMC)	169,354	0.0	0.0	0.0	0.0	0.0
HOSPITAL-ASSISTANT ADMINISTRATOR (E S 11) (HMC)	188,053	0.0	0.0	0.0	0.0	0.0
Labor Negotiator	115,000		0.3	0.1	0.3	0.3
MEDICAL ASSISTANT (NE S WFS HMC)	67,850	0.0	0.0	0.0	0.0	0.0
NURSE MANAGER (E S 10) (HMC)	158,850	0.1	0.1	0.1	0.1	0.1
PATIENT CARE TECHNICIAN NE WFSE (HMC)	65,166	0.0	0.0	0.0	0.0	0.0
PCT/CNA (UWMC)	65,000	0.0	0.1	0.1	0.1	0.1
REGISTERED NURSE 2 (E S SEIU 1199NW HMC RN)	129,771	0.0	0.1	0.0	0.1	0.1
RN (UWMC)	126,714	0.1	0.2	0.2	0.2	0.2
Total FTEs		1.0	2.6	1.8	2.6	2.6

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 E 2S SB	Title: Hospital staffing standards	Agency: 376-The Evergreen State College
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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	1.0	0.0	0.5	0.0	0.0
Account					
General Fund-State 001-1	163,083	0	163,083	0	0
Total \$	163,083	0	163,083	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:	Phone:	Date: 03/09/2023
Agency Preparation: Catherine Nicolai	Phone: (360) 664-9087	Date: 03/09/2023
Agency Approval: Dane Apalategui	Phone: 360-867-6517	Date: 03/09/2023
OFM Review: Ramona Nabors	Phone: (360) 742-8948	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.

Sec. 15 of 2ESSB 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) Patient care unit nursing staff assignments 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.

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.

In order to complete the assignment outlined in Sec. 15, 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.

*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	0	163,083	0	0
Total \$			163,083	0	163,083	0	0

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.0		0.5		
A-Salaries and Wages	113,874		113,874		
B-Employee Benefits	31,736		31,736		
C-Professional Service Contracts					
E-Goods and Other Services	17,473		17,473		
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	0	163,083	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
Editing/Publication	107,544	0.1		0.0		
Methods Review	120,984	0.1		0.1		
Researcher	107,544	0.8		0.4		
Total FTEs		1.0		0.5		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 E 2S SB

Title: Hospital staffing standards

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

Legislation Impacts:

- Cities:
- Counties:
- Special Districts: Significant expenditures expect for public hospital districts due to additional administrative and planning work, hiring of new staff, potential fines, and potential litigation costs.
- 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; number of violations or instances of noncompliance with this chapter; number of cases requiring litigation; work time necessary to fulfill advisory committee duties

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: 03/15/2023
Leg. Committee Contact:	Phone:	Date: 03/09/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 03/15/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 03/15/2023

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

Primary changes between bill versions include; addition of an advisory committee on hospital staffing, the expansion of operational regulations and requirements for hospital staffing committees, the addition of required reporting for hospitals not in compliance with their hospital staffing plan, increased administrative penalties on hospitals, the expansion of corrective plan of action process, and the greater clarification of the departments' investigation authorities and available administrative actions.

SUMMARY OF CURRENT BILL:

This bill would establish an advisory committee on hospital staffing by September 1, 2023 and require to establish a hospital staffing committee by January 1, 2024. The bill outlines the requirements and regulations that hospitals and their hospital staffing committees must follow to draft their hospital staffing plan and have the plan approved by the department. Additionally, the bill establishes that hospitals are required to report information related to hospital staffing to ensure the hospital is compliant with their most recent hospital staffing plan.

The department is authorized by this bill to investigate hospitals in order to ensure they are in compliance with their staffing plan. The bill requires the department to review all corrective plans of action for hospitals out of compliance with their staffing plan and authorizes them to impose civil penalties through administrative action.

[New Section] Sec. 1: (1) Requires the department of health and department of labor and industry to establish an advisory committee on hospital staffing by September 1, 2023

(3) (a) Six members of the committee must represent frontline hospital patient care staff and their alternates. Will be selected from list of nominees submitted by the Washington state hospital association (WSHA).

(3) (b) Six members of the committee must represent frontline hospital patient care staff and their alternates. Will be selected from list of nominees submitted by collective bargaining representatives of frontline hospital nursing staff.

(6) The advisory committee meets at least once a month until the uniform hospital staffing plan form is developed.

(7) The advisory committee will advise the department on its development of the uniform hospital staffing plan.

(11) Requires the WSHA to survey hospitals in Washington state and report to the advisory committee on hospital staffing on Washington hospitals' by December 1, 2023.

(13) After January 1, 2023, when the forms are developed and effective, the advisory committee may continue to meet if the department of health and committee members feel more meeting are necessary.

Sec. 2: Removed and added language which changed term definitions or added new terms.

Sec. 3: (1) Changed the required implementation month for hospitals to establish a hospital staffing committee from September to January.

(6) (b) Added language which requires hospital staffing committees to propose a draft of the hospital's annual staffing plan by a percent plus one vote and deliverer the plan to the hospital's chief executive officer or their designee by July 1, 2024, and annually thereafter.

(6) (c) (i-ii) Requires the chief executive officer or their designee must provide written feedback to the hospital staffing committee on the proposed plan and outlines the required feedback. [New subsection]

(6) (d) Requires hospital staffing committees to review and consider all feedback. [New subsection]

(6) (e) (i-ii) Outlines the process of selecting a staffing plan if the revised staffing plan is not adopted by the hospital.

[New subsection]

(6) (f) Added language which changed the implementation date from July 1, 2025 to January 1, 2025.

(7) (b) Requires hospitals to document when a patient care unit nursing staff assignment is out of compliance with the adopted staffing plan. The hospital must adopt written policies and procedures under this subsection no later than October 1, 2024. [New subsection]

(7) (b) (i) Each hospital must report the accurate percentage of nurse staffing assignments where the assignment in a patient care unit is out of compliance with the adopted nurse staffing plan department on a semiannual basis to the department. The first report is due January 1, 2023 and must cover the last six months of 2025. Beginning in 2026, the semiannual reports are due on July 31st and January 31st each year. [New subsection]

(7) (b) (ii) Beginning July 1, 2025, a hospital must report to the department if they are in compliance for less than 80 percent of the nurse staffing assignment in a month. The report must be filled within seven calendar days following the end of the month in which the hospital was out of compliance. [New subsection]

(7) (b) (iv) List which hospitals are exempt from subsection (7) (b). [New subsection]

(7) (f) Adds language which expanded “emergent circumstance” to “unforeseeable emergent circumstance lasting for 15 days or more” and requires hospitals to report when they deviate from their staffing plan and when the deviation is no longer in effect.

(7) (g) Prohibits hospitals from assigning a direct care registered nurse or direct care nursing assistant-certified to a nursing unit or clinical area unless the nurse has first received orientation in that clinical area sufficient to provide competent care to patients and has demonstrated current competence in providing care in that area. Hospitals must adopt written policies and procedures no later than July 1, 2025. [New subsection]

(8) Adds language which requires hospitals to post any corrective action plan relevant to a patient care unit in a public area on that patient care unit.

(11) Changed the due date for hospital staffing committees to file with charter with the department from “January 1, 2025” to “July 1, 2024”.

(12) Adds new language which allows the department and the department of labor and industries to stop providing a hospital staffing committee with technical assistance if the hospital is under inspection or being investigated.

Sec. 4: (1) (a) (iv) (B) Adds language which allows the department and the department of labor and industries to investigate complaints made under subsection (1) (a) (iv). Limits the departments investigation to violations of RCW 70.41.420 (7) (c) or (d) that were submitted to the hospital staffing committee and remain unresolved for 60 days after receipt by the hospital staffing committee.

(1) (d) (iii) Adds a new subsection to the list of events which result in hospitals not being found in violation of RCW 70.41.420 (7) (f). [New subsection]

(2) (b) Requires hospitals to complete all applicable portions of the staffing plan form. [New subsection]

(5) (a) Requires the department and department of labor and industries to, as necessary, require hospitals to revise their hospital’s proposed corrective plan for it to adequately address identified issues. [New subsection]

(5) (b) Allows the department to review any corrective plan of action under subsection (1)(c) or (4) of this section and require hospitals to revise the corrective plan of action to ensure patient safety is maintained. [New subsection]

(5) (c) (i-vi) Creates a list of minimum requirements for a corrective plan of action. [New subsection]

(5) (d) A corrective plan of action must be long enough to demonstrate the hospital’s ability to sustain compliance with the requirements of this section. [New subsection]

(5) (e) Requires a hospital to submit a revised corrective plan of action if remains in compliance for less than 80 percent of the nurse staffing assignments in the month following completion of the corrective plan of action. [New subsection]

(6) (a) Adds language which authorizes the department to take administrative action against a hospital that fails to submit a staffing plan, staffing committee charter, or a corrective plan of action by the relevant deadline. The administrative action may be penalties up to \$10,000 per 30 days of failure to comply.

(6) (b) (i) Adds language which authorizes the department of labor and industries to impose a civil penalty of \$50,000 per 30 days that a hospital fails to follow a corrective plan of action. The civil penalties are applied until the hospital begins to follow an approved corrective plan of action.

(6) (b) (ii) Allows hospitals to appeal the department's finding or assessment of penalties. [New subsection]

Sec. 7: Outlines the authorized actions the department may take against a hospital's license or provisional license if it finds that there has been a failure or refusal to comply with the requirements.

Sec. 8: (2) (b) Requires the employer to provide a quarterly report to the department of the total meals and rest periods missed in violation of this section during the quarter covered by the report and the total number of meals and rest periods required during the quarter. The reports are due to the department 30 calendar days after the conclusion of the calendar quarter. [New subsection]

(2) (c) Exempts hospitals defined in RCW 70.41.420(7)(b)(iv) from subsection (2) until July 1, 2026. [New subsection]

[New Section] Sec. 9: (2) (a) Requires the department to provide technical assistance to employers who are not percent compliant with the meal and rest break requirements under RCW 49.12.480, and more than 20 percent of the required meals and rest periods were missed, or if an employer fails to properly submit a report.

(2) (b) Beginning July 1, 2026, if the department finds that an employer has exceeded the quarterly threshold in (a) of this subsection for missed meals and rest periods, the department must impose a penalty.

(2) (c) (i) Lists the penalties that the department must impose for violations (b) of this subsection.

(2) (c) (ii) If the department imposes a penalty in a third consecutive quarter, the department must double the penalty amounts in (c)(i) of this subsection for subsequent consecutive quarters. Employers are no longer subject to increased penalties once they are in compliance for a single quarter.

(3) (a) Employers may not take adverse action against employees for exercising any right under RCW 49.12.480.

(3) (b) Allows the director to require the testimony of witnesses and the production of documents for a director's investigation.

(3) (c) Outlines the action that the director may take if an employer has violated (a) of this subsection.

(4) (a) (i) An employer must provide valid data in reports required under RCW 49.12.480 (2).

(4) (b) Requires the department to investigate complaints related to compliance with (a) of this subsection that are facially based on the actual knowledge of the complaining party.

(4) (c) Outlines the action that the director may take if an employer has violated (a) of this subsection.

Sec. 10: (3) (b) (iii) Adds language which requires mandatory prescheduled on-call time to not be used to begin at time when the duration of the procedure is expected to exceed the employee's regular scheduled hours of work, unless the provider responsible for a non-emergent patient procedure determines a delay in care would cause a worse clinical outcome.

Sec. 12: (3) (c) Outlines when the department may not assess a civil penalty on an employer. [New subsection]

Sec. 7: This section reduces existing exceptions to meal and rest break requirements and expands the categories of staff they apply to.

Sec. 9: Prescheduled on-call shifts are limited to 60 hours per week. The legislation requires hospitals to make reasonable efforts to retain staff to qualify for a “reasonable efforts” exemption to mandatory overtime prohibitions. Hospitals cannot claim this exemption to use mandatory overtime to fill vacancies resulting from staff shortages persisting longer than three months. Also, adds new language that establishes mandatory prescheduled on-call time may not be used when an employer schedules a non-emergent patient procedure which is expected to exceed the employee's regular scheduled hours of work.

Sec. 11: This section sets an investigation and penalty framework for various violations in this bill, including meal and rest break and mandatory overtime violations. L&I is required to investigate and can levy fines up to \$5,000 for repeat violations.

Sec. 12: Outlines the appeal process for a person, firm, or corporation to an L&I challenge a citation and notice of assessment.

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 IN EXPENDITURE IMPACTS BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

The changes made to the bill that would impact expenditures are the addition of an advisory committee on hospital staffing, the expansion of operational regulations and requirements for hospital staffing committees, addition of required reporting for hospitals not in compliance with their hospital staffing plan, and the increase to administrative penalties on hospitals.

EXPENDITURE IMPACTS OF CURRENT BILL:

This bill would have indeterminate but significant impacts on public hospital expenditures.

Requiring public hospitals to establish a hospital staffing committee would have an indeterminate impact on local hospitals because some hospitals already have committee which meet the requirements and the amount of work hours needed for each committee to fulfill their duties will vary from committee to committee. The expansion of operational regulations and requirements for hospital staffing committees would also have an indeterminate impact on expenditures due to not knowing the amount of work hours required to comply with the expanded regulations and requirements.

The hiring and staffing of personnel to fulfill each hospitals hospital staffing plan would have an indeterminate impact on public hospital expenditures due to the variance between each hospitals hospital staffing plans.

Increased administrative penalties for hospitals not in compliance with their hospital staffing plan would have an indeterminate impact because there is no reliable way to project how many violations each hospital will commit annually.

The addition of required reporting for hospitals not in compliance with their hospital staffing plan would have an indeterminate impact due to not knowing the amount of work hours required to compile and submit the required information for each report. Additionally, there is no reliable way to project how many violations each hospital will commit on an annual basis.

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 IN REVENUE IMPACTS BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

The changes made by the bill would have no impact on local government revenues.

REVENUE IMPACTS OF CURRENT BILL:

This bill would have no impact on local government revenues.

Sources:

Local Government Fiscal Note, 2SHB 1868, (2022)

Local Government Fiscal Note, SB 5236, (2023)

Local Government Fiscal Note, S SB 5236, (2023)

Senate Bill Report, E2S SB 5236, Labor & Commerce Committee

HB 1868 Bill Analysis 2022

Washington State Hospital Association

Association of Washington Cities 2022 Salary Survey

Washington State Hospital Association