

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 1762 2S HB AMS KEIS S3372.1	<b>Title:</b> Warehouse employees
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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	106,000	0	0	106,000	0	0	106,000
Office of Administrative Hearings	0	0	61,000	0	0	122,000	0	0	122,000
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	167,000	0	0	228,000	0	0	228,000

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts	No fiscal impact					
Loc School dist-SPI						
Local Gov. Other						
Local Gov. Total						

## Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Administrative Office of the Courts	.0	0	0	0	.0	0	0	0	.0	0	0	0
Office of Attorney General	.4	0	0	106,000	.4	0	0	106,000	.4	0	0	106,000
Office of Administrative Hearings	.2	0	0	61,000	.4	0	0	122,000	.4	0	0	122,000
Department of Labor and Industries	2.8	0	0	1,554,000	3.2	0	0	1,098,000	3.2	0	0	1,098,000
Total \$	3.4	0	0	1,721,000	4.0	0	0	1,326,000	4.0	0	0	1,326,000

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	No fiscal impact								
Loc School dist-SPI									
Local Gov. Other									
Local Gov. Total									

## Estimated Capital Budget Expenditures

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

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	No fiscal impact								
Loc School dist-SPI									
Local Gov. Other									
Local Gov. Total									

### Estimated Capital Budget Breakout

<b>Prepared by:</b> Anna Minor, OFM	<b>Phone:</b> (360) 790-2951	<b>Date Published:</b> Final 4/27/2023
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# Judicial Impact Fiscal Note

<b>Bill Number:</b> 1762 2S HB AMS KEIS S3372.1	<b>Title:</b> Warehouse employees	<b>Agency:</b> 055-Administrative Office of the Courts
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Expenditures from:**

NONE

**Estimated Capital Budget Impact:**

NONE

*The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.*

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 for 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.

Contact	Phone:	Date: 04/21/2023
Agency Preparation: Angie Wirkkala	Phone: 360-704-5528	Date: 04/21/2023
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 04/21/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 04/24/2023

188,003.00

Request # 287-1

## Part II: Narrative Explanation

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

The striking amendment to the second substitute would still have no fiscal impact to the Administrative Office of the Courts or the courts.

This bill would add a new chapter to Title 49 RCW protecting warehouse employees.

### II. B - Cash Receipts Impact

None

### II. C - Expenditures

No fiscal impact expected to the Administrative Office of the Courts or the courts.

## Part III: Expenditure Detail

### III. A - Expenditure By Object or Purpose (State)

NONE

### III. B - Expenditure By Object or Purpose (County)

NONE

### III. C - Expenditure By Object or Purpose (City)

NONE

### III. D - FTE Detail

NONE

### III. E - Expenditures By Program (optional)

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

### IV. B1 - Expenditures by Object Or Purpose (State)

NONE

### IV. B2 - Expenditures by Object Or Purpose (County)

NONE

### IV. B3 - Expenditures by Object Or Purpose (City)

NONE

### IV. C - Capital Budget Breakout

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

188,003.00

Form FN (Rev 1/00)

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Request # 287-1

Bill # 1762 2S HB AMS KEIS S3372.1

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1762 2S HB AMS KEIS S3372.1	<b>Title:</b> Warehouse employees	<b>Agency:</b> 100-Office of Attorney General
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Legal Services Revolving Account-State 405-1	53,000	53,000	106,000	106,000	106,000
<b>Total \$</b>	53,000	53,000	106,000	106,000	106,000

### Estimated Operating Expenditures from:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.4	0.4	0.4	0.4	0.4
<b>Account</b>					
Legal Services Revolving Account-State 405-1	53,000	53,000	106,000	106,000	106,000
<b>Total \$</b>	53,000	53,000	106,000	106,000	106,000

### 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: 04/21/2023
Agency Preparation: Cam Comfort	Phone: (360) 664-9429	Date: 04/26/2023
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 04/26/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 04/27/2023

## 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 defining “quota,” “warehouse distribution center,” and other words and terms.

Section 2: New section requiring employers to provide specified information to employees regarding quotas.

Section 3: New section establishing time periods that must be considered in quotas.

Section 4: New section setting out when a quota violates this act, except as set forth in Section 5.

Section 5: New section setting out when a quota violates RCW 49.17.

Section 6: New section specifying the records an employer must establish, maintain, and contemporaneously preserve. An employer that fails to allow adequate inspection within a reasonable time may not use the records to challenge the correctness or any citation and notice issued by the Department of Labor and Industries (L&I).

Section 7: New section providing what employees and former employees may request from employers regarding quotas.

Section 8: New section prohibiting retaliation, discrimination, or adverse actions against employees or former employees that exercise rights under this chapter.

Section 9: New section setting out procedures to file a complaint with L&I.

Section 10: New section setting out appeal procedures.

Section 11: New section authorizing rulemaking.

Section 12: New section providing severability clause.

Section 13: New section providing that Sections 1-12 are a new chapter in RCW 49.

Section 14: New section providing July 1, 2024, effective date.

### II. B - Cash receipts Impact

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

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

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

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

#### AGO AGENCY ASSUMPTIONS:

L&I will be billed for Seattle rates:

FY 2024 and in each FY thereafter: \$53,000 for 0.20 Assistant Attorney General FTE (AAG) and 0.10 Legal Assistant 3 FTE (LA).

**II. C - Expenditures**

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

Attorney General’s Office (AGO) Agency Assumptions:

This bill will become effective on July 1, 2024.

Location of staffing is assumed to be in a Seattle office building.

Total workload impact in this request includes standard assumption costs for goods & services, travel, and capital outlays for all FTE identified.

Agency administration support FTE are included in the tables. The Management Analyst 5 (MA) is used as a representative classification. An example ratio is for every 1.0 Assistant Attorney General FTE (AAG), the AGO includes 0.5 FTE for a Legal Assistant 3 (LA) and 0.25 FTE of an MA.

Assumptions for the AGO Labor and Industries Division’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.

Employment Standards within L&I will be charged with developing rules and investigating complaints around wages, rest breaks, administrative issues, and retaliation.

FY 2024, LNI anticipates that the bulk of legal services will be advice surrounding implementation, rulemaking, and advising on the development of policy.

FY 2025 and continuing in each FY thereafter LNI estimates about 16 appeals per year of L&I’s Employment Standards enforcement actions under this bill. Based on similar programs that already exist at L&I, the complexity of each appeal means that 16 cases equate to roughly 0.2 FTE of AAG work. Those cases are estimated to continue at that pace for the foreseeable future.

This bill will also create work for the Worker Safety and Health program at LNI, also referred to as DOSH. They will have similar duties to inspect and enforce the worker safety provisions of the bill. That work is anticipated to be nominal, and costs are not included in this request.

LNI: Total Seattle workload impact:

FY 2024 and in each FY thereafter: \$53,000 for 0.2 AAG and 0.1 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	53,000	53,000	106,000	106,000	106,000
<b>Total \$</b>			53,000	53,000	106,000	106,000	106,000

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.4	0.4	0.4	0.4	0.4
A-Salaries and Wages	36,000	36,000	72,000	72,000	72,000
B-Employee Benefits	11,000	11,000	22,000	22,000	22,000
E-Goods and Other Services	6,000	6,000	12,000	12,000	12,000
<b>Total \$</b>	<b>53,000</b>	<b>53,000</b>	<b>106,000</b>	<b>106,000</b>	<b>106,000</b>

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Assistant Attorney General-Seattle	124,635	0.2	0.2	0.2	0.2	0.2
Legal Assistant 3-Seattle	67,044	0.1	0.1	0.1	0.1	0.1
Management Analyst 5	91,524	0.1	0.1	0.1	0.1	0.1
<b>Total FTEs</b>		<b>0.4</b>	<b>0.4</b>	<b>0.4</b>	<b>0.4</b>	<b>0.4</b>

**III. D - Expenditures By Program (optional)**

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Labor & Industries Division (LNI)	53,000	53,000	106,000	106,000	106,000
<b>Total \$</b>	<b>53,000</b>	<b>53,000</b>	<b>106,000</b>	<b>106,000</b>	<b>106,000</b>

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

**IV. D - Capital FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

**Part V: New Rule Making Required**

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



# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1762 2S HB AMS KEIS S3372.1	<b>Title:</b> Warehouse employees	<b>Agency:</b> 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		61,000	61,000	122,000	122,000
<b>Total \$</b>		61,000	61,000	122,000	122,000

### Estimated Operating Expenditures from:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.4	0.2	0.4	0.4
Administrative Hearings Revolving Account-State 484-1	0	61,000	61,000	122,000	122,000
<b>Total \$</b>	0	61,000	61,000	122,000	122,000

### 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: 04/21/2023
Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 04/26/2023
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 04/26/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 04/27/2023

## 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.*

2SHB 1762 striker may lessen the impact on OAH in some areas and increase in others as compared with prior versions. Section 1 decreases the entities impacted by partially changing the definition of employer: increasing the number of employees at covered warehouse distribution centers from 500 to 1,000 across multiple locations in Washington. Section 1 also excludes farm product warehousing and storage from covered warehouse distribution centers. However, the striker limited the option for current and former employees and the Attorney General's Office to file civil court actions against employers. In addition, Section 9 increases the Department of Labor & Industries' (L&I) enforcement authority by authorizing L&I to issue determinations of compliance, and to increase penalties for repeat violations. Section 9 also authorizes L&I to require employers to conduct self-audits and provide corrected quotas to employees. This may result in additional appeals under Section 10, offsetting any lessened impact.

Section 2 continues to require each employer to provide each employee with a written, detailed description of each quota that applies to him/her, any potential adverse employment action for failing to meet the quota, and any incentives or bonuses for meeting or exceeding the quota. This written description must be given at the time of hire, or within 30 days of this legislation's effective date, as well as within two working days prior to the effective date of any modification to the existing quota(s).

Under Section 4, quotas are still in violation if they do not sufficiently account for rest breaks and travel time to designated locations for rest and meal breaks, as well as time to do the work subject to the quota. Section 4 prohibits adverse action against employees for failing to meet an improperly disclosed quota, or a quota that otherwise violates this section.

Section 8 continues to prohibit discrimination, retaliation, or adverse action against employees for asking for information about applicable quotas, or filing a complaint regarding quotas in violation of this legislation. Section 8 also continues to identify when a rebuttable presumption of unlawful retaliation applies, and how it may be rebutted.

Section 10 continues to provide that appeals of L&I actions will be assigned to the Office of Administrative Hearings to conduct hearings and issue initial orders. However, the appeal period is shortened from 30 days to 15 days.

Pursuant to Sections 13 and 14, this new chapter in Title 49 RCW, if passed, takes effect 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 22 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 13.1 hours of line Administrative Law Judge (ALJ) time including prehearing conferences, hearings, order writings, etc.

L&I assumes 11 Break, Wage, & Administrative violations and 11 Retaliation violations will be referred to OAH for appeals.

OAH Agency Workforce Assumptions:

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

Total workload impact beginning in FY 2025: 0.21 ALJ at a cost of \$34,901; 0.03 SALJ at a cost of \$5,646; 0.13 LA2 at a cost of \$12,589; 0.05 MA5 at a cost of \$7,782. Total rounded cost: \$61,000.

OAH 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	61,000	61,000	122,000	122,000
<b>Total \$</b>			0	61,000	61,000	122,000	122,000

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.4	0.2	0.4	0.4
A-Salaries and Wages		37,000	37,000	74,000	74,000
B-Employee Benefits		12,000	12,000	24,000	24,000
C-Professional Service Contracts					
E-Goods and Other Services		11,000	11,000	22,000	22,000
G-Travel					
J-Capital Outlays		1,000	1,000	2,000	2,000
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	0	61,000	61,000	122,000	122,000

**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		0.2	0.1	0.2	0.2
Legal Assistant 2	50,592		0.1	0.1	0.1	0.1
Management Analyst 5	91,524		0.1	0.0	0.1	0.1
Senior Administrative Law Judge	117,168		0.0	0.0	0.0	0.0
<b>Total FTEs</b>			0.4	0.2	0.4	0.4

**III. D - Expenditures By Program (optional)**

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Regulatory & Education (REG)		61,000	61,000	122,000	122,000
<b>Total \$</b>		61,000	61,000	122,000	122,000

**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

<b>Bill Number:</b> 1762 2S HB AMS KEIS S3372.1	<b>Title:</b> Warehouse employees	<b>Agency:</b> 235-Department of Labor and Industries
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

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

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.9	3.7	2.8	3.2	3.2
<b>Account</b>					
Accident Account-State 608-1	788,000	523,000	1,311,000	934,000	934,000
Medical Aid Account-State 609-1	151,000	92,000	243,000	164,000	164,000
<b>Total \$</b>	939,000	615,000	1,554,000	1,098,000	1,098,000

### 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: 04/21/2023
Agency Preparation: Crystal Van Boven	Phone: 360-902-6982	Date: 04/26/2023
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 04/26/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 04/27/2023

## 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	788,000	523,000	1,311,000	934,000	934,000
609-1	Medical Aid Account	State	151,000	92,000	243,000	164,000	164,000
<b>Total \$</b>			<b>939,000</b>	<b>615,000</b>	<b>1,554,000</b>	<b>1,098,000</b>	<b>1,098,000</b>

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.9	3.7	2.8	3.2	3.2
A-Salaries and Wages	142,000	256,000	398,000	422,000	422,000
B-Employee Benefits	52,000	99,000	151,000	168,000	168,000
C-Professional Service Contracts	317,000		317,000		
E-Goods and Other Services	385,000	251,000	636,000	490,000	490,000
G-Travel	3,000	9,000	12,000	18,000	18,000
J-Capital Outlays	40,000		40,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	<b>939,000</b>	<b>615,000</b>	<b>1,554,000</b>	<b>1,098,000</b>	<b>1,098,000</b>

### 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	0.5	0.8		
Fiscal Analyst 5	80,952	0.1	0.2	0.2	0.2	0.2
Industrial Relations Agent 2	66,420	0.8	3.0	1.9	3.0	3.0
<b>Total FTEs</b>		<b>1.9</b>	<b>3.7</b>	<b>2.8</b>	<b>3.2</b>	<b>3.2</b>

**III. D - Expenditures By Program (optional)**

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

**IV. D - Capital FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

**Part V: New Rule Making Required**

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

See attached

## Part II: Explanation

This bill would:

- Add a new chapter to Title 49 RCW, requiring rulemaking.
- Provide new protections to “warehouse distribution center” employees working under quotas. The Employment Standards Program would have authority to investigate and enforce the proposed requirements.

2SHB 1762 AMS KEIS S3372.1 is different from 2SHB 1762 in that it:

- Section 1: increases the number of employees at one or more warehouse distribution centers in WA for the definition of “employer” from 500 to 1,000 employees.
- Section 1: excludes NAICS codes 493130 (farm product warehousing) and 492110 (courier and delivery services) from the definition of “warehouse distribution center”.
- Section 8: changes the standard to “a preponderance of evidence” instead of “clear and convincing evidence” to rebut the presumption of retaliation if the employer takes adverse action against an employee or former employee.
- Section 9: Modifies the provisions related to L&I action to:
  - Change "closure letter" to "determination of compliance";
  - Allow L&I to request that the employer self-audit their records and make them available upon request;
  - L&I may require employers to notify affected employees of an investigation;
  - Modifies the penalty provision to allow L&I to waive or reduce penalties if the employer takes corrective action;
  - Requires L&I to adopt rules to create a schedule of penalties for repeat violators, not to exceed 10,000 per violation;
  - Allows L&I to order an employer to provide a corrected quota to affected employees within 15 calendar days;
  - Allows L&I to take court action to enforce violations;
  - Changes the period to appeal a citation to 15 days, instead of 30 days, and adds determination of compliance to the allowable appeals.
- Removes the provision for allowing an employee or former employee to bring an action for injunctive relief and, in the case of retaliation, for damages.
- Removes the provision for allowing the attorney general to bring a civil action for violations of this act.



This act takes effect July 1, 2024.

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

### **Section 1**

Updates definitions for “quota”, “affiliate”, “aggregated data”, “defined time period”, “employer”, “employee”, and “warehouse distribution centers”.

The “warehouse distribution centers” to be included in the scope of this bill include:

- 100 or more employees at a single warehouse distribution center in the state, or
- 1000 or more employees at one or more warehouse distribution centers in the state.

The scope of this bill is limited to employers in the following five (5) NAICs codes that meet the employment thresholds of a single warehouse or at multiple warehouses statewide:

- 493 for warehousing and storage (excludes 493130 – farm product warehousing);
- 423 for merchant wholesalers, durable goods;
- 424 for merchant wholesalers, nondurable goods;
- 454110 for electronic shopping and mail-order houses; or

### **Section 2**

Clarifies requirements for a written description of subjected quotas within 30 days of the effective date. Specifies requirements to provide employees with information on quotas used as a basis for adverse actions. Adds preferred language requirement for the quota descriptions.

### **Section 3**

Defines time considered as productive time or time on task for consideration in a quota. Included “time to perform any activity required by the employer in order to do the work subject to the quota” in the bill.

### **Section 4**

Specifies quota violations under this chapter, except as provided in Section 5. An employer may not take adverse action against an employee for failing to meet a quota that violates this section

or any quota the employer did not disclose to the employee as required under Section 2 of this act.

### **Section 5**

Specifies quota violations under 49.17 and bars an employer from applying a quota when it violates it, and bars adverse action for such circumstances. An employer who fails to allow adequate inspection of records in an inspection by the department within a reasonable time may not use such records in any appeal to challenge the correctness of any citation and notice issued by the department.

### **Section 6**

Requires record creation and retention, including work speed data for individual employees, aggregated work speed data for similar employees, and written descriptions of each quota provided to an employee pursuant to subsection 2. Requires preservation of records relating to the basis for an adverse action for three years.

### **Section 7**

Provides the right for employees and former employee to request written descriptions of quotas, including their own data and aggregated data of similar employees for the preceding 6 months. Employer must provide records within a specified time. An employer that does not use quotas or monitor work speed data has no obligation to provide records.

### **Section 8**

Retaliation protections for this chapter. Updated “any person” to “any employee or former employee.” Includes a rebuttable presumption. Except as provided for in section 5 of this act, the department must carry out and enforce the provisions of this section and section 4 of this act pursuant to procedures established under chapter 49.46 RCW and any applicable rules. The department may adopt new rules to implement or enforce this subsection.

### **Section 9**

An employee may file a complaint with the department alleging a violation under this chapter except for sections 5 and 8 of this act. L&I must investigate complaints and may initiate an

investigation without a complaint. The amendment makes the following modifications regarding L&I action:

- Changes "closure letter" to "determination of compliance";
- Allows L&I to request that the employer self-audit their records and make them available upon request;
- L&I may require employers to notify affected employees of an investigation;
- Modifies the penalty provision to allow L&I to waive or reduce penalties if the employer takes corrective action;
- Requires L&I to adopt rules to create a schedule of penalties for repeat violators, not to exceed 10,000 per violation;
- Allows L&I to order an employer to provide a corrected quota to affected employees within 15 calendar days;
- Allows L&I to take court action to enforce violations;
- Changes the period to appeal a citation to 15 days, instead of 30 days, and adds determination of compliance to the allowable appeals.

### **Section 10**

Establishes appeals for this chapter (as provided in 34.05 RCW).

### **Section 12**

Rule authority for chapter. L&I may adopt and implement rules to carry out and enforce the chapter.

### **Section 13**

Sections 1-12 constitute a new act.

## **II. B – Cash Receipt Impact**

### **Receivables – Operating**

The proposed bill requires penalties received by L&I to be deposited in the Supplemental fund (required under RCW 51.44.033). The increase to revenue is indeterminate due to variables including, how many complaints will be received and how many of these cases will result in penalties.

## **II. C – Expenditures**

### **Appropriated – Operating Costs**

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

### **Staffing**

1.0 FTE, Administrative Regulations Analyst 4 (ARA4), temporary from July 1, 2023 through December 31, 2024. Duties include: Rulemaking, conducting hearings and policy drafting.

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

3.0 FTEs, Industrial Relations Agent 2 (IRA2), Permanent, Starting April 1, 2024, Duties Include: Investigate complaints for warehouse distribution workers subject to quotas of meal and rest breaks. Complaint/violation types relate to: rest and meal periods, wage, AV, and retaliation.

### **Workload Indicators**

- 165,042 estimated workers affected under the listed NAIC codes.
  - 492100 = 13,989
  - 454100 = 0
  - 493 = 32,793
  - 423 = 71,615
  - 424 = 47,488

Total: 165,042 impacted workers

Workers with potential to be incorrectly denominated or performing activities under NAIC codes in this bill will fall under other codes 42, 48, and 49. This is a pool of 237,815 workers. L&I expects this bill to protect 5% of these workers.

- $237,815 \times 5\% = 11,891$
- $165,042 + 11,891 = 176,933$  total affected workers
- 240 average cases an employee can complete in a year
- 87 average retaliation cases an employee can complete in a year.
- 1,597 meal and rest period complaints in 2021
- 777 administrative violation complaints/year (average of complaints 2019-2021)
- 6,675 wage complaints in 2021
- 238 retaliation complaints/year (average of complaints 2019-2021)

**L&I estimates:**

An additional 66 meal and rest period complaints. ( $1,597 / 3,962,171$  estimated number of workers employed in 2021 = .0004,  $176,933 \times .0004 = 71$  complaints.  $66/240 = 0.3$  FTE).

An additional 44 administrative violation complaints ( $777/3,524,381$  average number of workers in 2019-2021 = .0002,  $176,933 \times .0002 = 35$ ,  $35/240 = 0.1$  FTE).

An additional 441 wage violation complaints ( $6,675/3,962,171$  estimated number of workers in 2021 = .002,  $176,933 \times .002 = 354$ ,  $354/240 = 1.5$  FTEs).

An additional 11 retaliation complaints ( $238/3,524,381$  the average amount of workers in 2019-2021 = .000068,  $176,933 \times .000068 = 12$ ,  $12/87 = 0.1$  FTE)

The expansion of the definition of “warehouse distribution center” to include any establishments that engage in activities under the NAIC codes, not just establishments denominated by the NAIC code, will require 1 additional FTE to ensure proper enforcement for those workers not denominated under the NAIC codes included, but still engaging within the defined activities.

**Information Technology**

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. All expenditures in this section are for the 2023-25 biennium.

This bill provides new protections related to quotas for employees working at warehouse distribution centers with 100 or more employees at one location or 500 or more employees at warehouse distribution centers in the state. The information technology work is a candidate for SaaS/COTS procurement that could take 8 months to deliver, including procurement process. This will require IT contract support for project management, business analysis, solution architecture, web design and integration with existing Complaints Activity Tracking System (CATS), Accounts Receivable and Collections System (ARC) and Front Counter applications.

A total of \$577,000 is needed in the 2023-25 biennium for all information technology changes. This includes:

- Contractor costs – \$275,228 is needed for 1850 contractor hours
- QA – \$41,500
- Software – \$350,000 (ongoing costs include \$100,000 per year in fiscal years 2026 – 2029)

### **Outreach Campaign**

\$30,000 is needed for a social media campaign to inform workers and potential workers in this high-turnover industry of these new rights.

### **Rule making**

\$12,500 is needed for 5 rule making hearings to occur during FY24. The average cost of one rule making hearing is \$2,500. (5 hearings x \$2,500 each = \$12,500)

### **Attorney General – Legal Services**

The AGO assumes \$53,000 per fiscal year ongoing starting in FY 2024 for legal services related to implementation, investigations, enforcement and litigation under this bill.

### **Administrative Hearings**

Office of Administrative Hearings assumes the following costs related to this bill, beginning in FY 2025:

- 0.21 ALJ at a cost of \$34,901
- 0.03 SALJ at a cost of \$5,646
- 0.13 LA2 at a cost of \$12,589
- 0.05 MA5 at a cost of \$7,782

Total cost rounded to \$61,000 per FY.

**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	9,000	19,000	16,000	16,000	16,000	16,000
609	Medical Aid	2,000	4,000	3,000	3,000	3,000	3,000
	Total:	\$11,000	\$23,000	\$19,000	\$19,000	\$19,000	\$19,000

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

**Part IV: Capital Budget Impact**

None.

**Part V: New Rule Making Required**

This legislation would result in rule changes to:

- RCW 49.17
- RCW 51.44.033
- RCW 49.48.086
- RCW 34.05