

Multiple Agency Fiscal Note Summary

Bill Number: 5777 SB	Title: Unemp ins/strikes & lockouts
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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 Administrative Hearings	0	0	74,000	0	0	148,000	0	0	74,000
Employment Security Department	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	74,000	0	0	148,000	0	0	74,000

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 Administrative Hearings	.4	0	0	74,000	.8	0	0	148,000	.8	0	0	148,000
Employment Security Department	3.1	0	0	1,246,800	.0	0	0	148,000	.0	0	0	148,000
Total \$	3.5	0	0	1,320,800	0.8	0	0	296,000	0.8	0	0	296,000

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Office of Administrative Hearings	.0	0	0	.0	0	0	.0	0	0
Employment Security Department	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

NONE

Prepared by: Anna Minor, OFM	Phone: (360) 790-2951	Date Published: Final 1/11/2024
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Individual State Agency Fiscal Note

Bill Number: 5777 SB	Title: Unemp ins/strikes & lockouts	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		74,000	74,000	148,000	74,000
Total \$		74,000	74,000	148,000	74,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.8	0.4	0.8	0.8
Account					
Administrative Hearings Revolving Account-State 484-1	0	74,000	74,000	148,000	148,000
Total \$	0	74,000	74,000	148,000	148,000

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: Susan Jones	Phone: 360-786-7404	Date: 12/28/2023
Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 01/04/2024
Agency Approval: Rob Cotton	Phone: 360-407-2708	Date: 01/04/2024
OFM Review: Val Terre	Phone: (360) 280-3973	Date: 01/10/2024

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 will extend to Unemployment Insurance qualification to striking and locked out employees.

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 Employment Security Department for the costs related to this proposed legislation.

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.

ESD estimates that the proposed legislation will result in 208 new appeals being referred to the Office of Administrative Hearings (OAH) per Fiscal Year (FY) beginning in FY 2025. One-third (or 35 hearings) of these appeals are assumed to be simplistic and will require 30 minutes of line Administrative Law Judge (ALJ) to resolve. On average, the remaining 139 appeals are expected to take approximately two hours of ALJ time including case preparation, hearings, order writings, etc.

OAH Agency Workforce Assumptions:

- (1) 1.0 Line ALJ will include cost and FTE for 0.15 Senior ALJ (SALJ), 0.15 Lead ALJ (LALJ), 0.6 Legal Assistant 2 (LA2) (Range 40 step L), and 0.25 administrative support represented as a 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: 0.22 ALJ, 0.02 SALJ, 0.02 LALJ, 0.13 LA2 and 0.06 MA5 at a cost of \$74,000 per FY.

Legal services 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	74,000	74,000	148,000	148,000
Total \$			0	74,000	74,000	148,000	148,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.8	0.4	0.8	0.8
A-Salaries and Wages		46,000	46,000	92,000	92,000
B-Employee Benefits		15,000	15,000	30,000	30,000
C-Professional Service Contracts					
E-Goods and Other Services		12,000	12,000	24,000	24,000
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-					
Total \$	0	74,000	74,000	148,000	148,000

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	110,400		0.4	0.2	0.4	0.4
Lead Administrative Law Judge	118,932		0.1	0.0	0.1	0.1
Legal Assistant 2	52,964		0.2	0.1	0.2	0.2
Management Analyst 5	95,184		0.1	0.1	0.1	0.1
Senior Administrative Law Judge	128,400		0.1	0.0	0.1	0.1
Total FTEs			0.8	0.4	0.8	0.8

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Unemployment Insurance (UI)		74,000	74,000	148,000	148,000
Total \$		74,000	74,000	148,000	148,000

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: 5777 SB	Title: Unemp ins/strikes & lockouts	Agency: 540-Employment Security Department
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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	0.0	6.2	3.1	0.0	0.0
Account					
Unemployment Compensation Administration Account-Federal 119-2	0	1,246,800	1,246,800	148,000	148,000
Total \$	0	1,246,800	1,246,800	148,000	148,000

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: Susan Jones	Phone: 360-786-7404	Date: 12/28/2023
Agency Preparation: Lesley Carpenter	Phone: 360 902-9404	Date: 01/11/2024
Agency Approval: Lisa Henderson	Phone: 360-902-9291	Date: 01/11/2024
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 01/11/2024

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.

SB 5777 would allow workers during a strike or lockout to qualify for unemployment benefits after serving the mandatory waiting week and an additional week without benefits.

This bill also seeks to ensure an employers experience rating is not impacted due to claims paid during a strike.

Section 1-

RCW 50.20.090 (1)(b removed): Removes lockout as a disqualification of benefits. Currently, a person who is locked out, due to a labor dispute, is ineligible for benefits.

RCW 50.20.090 (3): Currently, a person who is on strike is ineligible for benefits. The bill would allow a striking worker to be eligible for benefits after the first week of the strike.

Section 2-

RCW 50.29.021 (2)(k): Seeks to not change an employer's experience rating for claims paid during a strike / lockout. Currently, employers are not charged for striking employees as striking employees are not eligible for benefits.

Section 3-

Adds a severability clause.

Currently the effective date is 90 days sine die. Moving the effective date to January 5, 2025 would allow UTAB to be updated to automate the new eligibility decisions. Manual processes can be used to bridge the gap between the eventual effective date and the time when systems can be updated, but it will create additional one time staff cost.

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.

The Department is unable to determine the number of claims that were part of a strike or lockout that lasted longer than 2 weeks. The bill requires an additional waiting week along with the current waiting week before claimants are eligible, so any labor dispute resolved within two weeks would not have an impact.

Benefits paid out of the Trust Fund are recouped through increases to employer's experience rating (charged benefits), direct reimbursement (reimbursable employers), or through the social tax (for non-charged benefits). The bill directs the Department to non-charge benefits paid to striking workers, causing the benefits being paid to be recouped through the social tax.

The social tax is determined based on costs from the previous year for benefit payments that can't be attributed to specific employers. If benefit payments for non-charged benefits in a benefit year increase, the social tax may increase up to 0.85% in 2024, 0.90% for 2025, and 1.22% for subsequent years.

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 Expenditure Impact Narrative

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
119-2	Unemployment Compensation Administration Account	Federal	0	1,246,800	1,246,800	148,000	148,000
Total \$			0	1,246,800	1,246,800	148,000	148,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		6.2	3.1		
A-Salaries and Wages		530,127	530,127		
B-Employee Benefits		212,051	212,051		
C-Professional Service Contracts		100,800	100,800		
E-Goods and Other Services		257,324	257,324	148,000	148,000
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements		146,498	146,498		
9-					
Total \$	0	1,246,800	1,246,800	148,000	148,000

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
COMMUNICATIONS CONSULTANT 4	69,401		0.1	0.1		
ES BENEFITS SPECIALIST 3	66,015		0.2	0.1		
IT BUSINESS ANALYST - JOURNEY	92,416		0.1	0.1		
IT POLICY & PLANNING - SENIOR/SPECIALIST	106,976		0.5	0.2		
IT PROJECT MANAGEMENT - SENIOR/SPECIALIST	106,976		0.5	0.2		
MANAGEMENT ANALYST 3	66,015		0.2	0.1		
MANAGEMENT ANALYST 5	84,518		0.5	0.2		
TAX POLICY SPECIALIST 2	78,474		3.5	1.8		
TAX POLICY SPECIALIST 3	88,794		0.1	0.1		
WMS BAND 1	92,911		0.5	0.2		
Total FTEs			6.2	3.1		0.0

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

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

NONE

Part V: New Rule Making Required

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

This bill may require major rule making.

ESD would need to obtain guidance from US Department of Labor (USDOL) to clarify their position and require a job search. If a work search is required, the ESD would implement changes to make it clear there is work search requirement. If USDOL determines that a job search is not needed, the Department would adopt rules to clarify that the job search is not needed.

Expenditure Impact Narrative

Under current law, an individual who is on strike is not separated from the employer and is generally not eligible for benefits.

A person may, however, become eligible during the course of the strike if certain additional actions occur that result in a separation. For example, a worker could:

- Be laid off or fired during the course of the strike.
- Be locked out or replaced by the employer and not permitted to return.
- Experience an allowable reason to quit the struck employer while the strike is taking place and be eligible for benefits based on the nature of the quit.

While lockouts are still considered labor disputes, claimants are generally allowed benefits when an employer who does not belong to a multi-employer bargaining unit locks out employees as a negotiation tactic. If there is a separation during a lockout, it would be investigated.

However, if an employer is part of a multi-employer bargaining unit when the union strikes at one of the participating employers and other employers in the bargaining unit lock out employees who are members of that union, all members working in any of those locations are denied benefits.

Example: ABC Company, ZYX Resources & LMNOP Mechanical belong to a multi-employer bargaining unit with the Union X. Union X goes on strike against ABC. Since all three employers are part of the same bargaining unit, ZYX & LMNOP lockout Union X at their places of business. Those members of Union X are denied benefits under RCW 50.20.090.

SB 5777 changes criteria for unemployment insurance eligibility for claimants during a labor dispute. Prior to the bill, claimants on strike or lockout were not eligible for benefits. If the bill passes, a claimant during a strike or lockout would be eligible for benefits. This would allow a new portion of unemployed people to claim benefits.

The Department is unable to determine the number of claims that were part of a strike or lockout that lasted longer than 2 weeks. The bill requires an additional waiting week along with the current waiting week before claimants are eligible, so any labor dispute resolved within two weeks would not have an impact.

Employment Security Department (ESD) estimates that the bill will lead to between 812 and 3,470 additional claims each year.

ESD does not have sufficient data to estimate with certainty the number of additional claims that will be filed based on the new eligibility criteria. The Department based estimates on two projections.

The first estimate is based on data provided by the New Jersey Division of Unemployment. Striking workers in New Jersey have been eligible for unemployment benefits for two years. During that time, 2,241 claimants have certified that they were on strike, or 1,120 per year. Based on the November 2023 unemployment data, New Jersey's population size compared to Washington, and the claims statistics provided by the New Jersey Division of Unemployment, Washington would have approximately 812 additional claims based on similar rate of claims as New Jersey. This estimate provides the low-end assumption for the estimate.

The second uses the number of claims from 2018 through 2023 that were marked as "on strike." Between 2018 and 2023, there were approximately 2,313 claims per year marked as a labor dispute. This number is likely skewed to be lower than the total number of people who went on strike during that time period and would possibly be eligible for benefits under the new criteria, as many labor organizations are aware that ESD does not currently pay benefits under a strike situation. To account for this unknown variable, ESD estimates 3,470 additional claims a year for striking workers (2,313 relevant

claims a year multiplied by 150% to estimate the number of claims that could be filed with new eligibility requirements). This estimate provides the high end of the range.

To implement this bill the following needs to occur in fiscal year 2025:

- Major rulemaking and policy work - 6 months
- Update the Unemployment Tax and Benefits (UTAB) system
- Modifications to internal technology systems
- Update Employment Security Department (ESD) websites and email communications
- Update training and reference materials
- Staff Training

One Time Cost

Rulemaking and Policy related cost (one time cost)

- Major rulemaking cost = \$90,000

Information Technology (IT) Related Costs (one time cost)

IT is assuming this is a large change to UTAB. To implement these changes, UTAB will need to be modified to add a question to the weekly claim, after adjudication, that inquires if the claimant is on strike. If the claimant answers yes, the system would automatically non-charge employer(s) for the week claimed. In addition, this question would allow the department to determine when the strike is completed.

Information Technology (IT) Related Contract Costs:

A developer will be needed to modify UTAB to add the strike question and ensure it has a non-charging effect.

- FY25 (480 hours*\$210 per hour = \$100,800)

Information Technology (IT) Related Staff Cost:

An IT business Analyst - Journey would be needed to implement the developers changes to UTAB.

- FY25 (0.12 FTE = \$20,901)

A Management Analyst 3 would be required to test the development that was done to ensure UTAB is operating properly.

- FY25 (0.23 FTE = \$29,833)

Total IT related cost for FY2025: $\$100,800 + \$20,901 + \$29,833 = \$151,534$

Communications Related Costs (one time cost)

Communications is assuming this to be a medium communication plan. Staff will be needed to accomplish the communications planning, web development, and internal communications as well as media responses. In the communication planning part of the project, they will need to gather information and participate in project team meetings. They will need to gather feedback from subject matter experts, leaders, and the communication manager, and obtain approval of communications plans. In the web development process of the project, they will be responsible for developing the customer facing website, drafting key messages, gathering feedback from subject matter experts, leaders, and the communication manager, and obtaining approval of verbiage. In the internal communications part of the project, they would be responsible for information gathering, sharing, and participating in internal communications activities.

- Communications Consultant 4
 - FY25 (0.10 FTE = \$13,541)

Total Communications related cost for FY2025: \$13,541

Policy Related Cost (one time cost)

Policy is determining this to be of medium complexity. To implement the changes, the policy team will need to make changes to current training materials, provide new unemployment insurance benefit (UIB) training, as well as provide updates for staff.

- Tax Policy Specialist 3
 - FY25 (0.13 FTE = \$21,850)

Total Policy related cost for FY2025: \$21,850

Unemployment Insurance Customer Service (UICS) Related Cost (one time cost)

UICS is determining this is medium complexity. To implement the changes, the UICS team will need to make changes to current training materials and provide employer education. This cost can be absorbed with existing resources.

There is also a need to account for the time it will take to manually implement the bill while updates are occurring. Manual processes can be used to bridge the gap between the eventual effective date and the time when systems can be updated, but it will create additional staff time. Moving the effective date to January 5, 2025, would allow UTAB to be updated to automate the new eligibility decisions and eliminate the need for manual processes.

It is estimated that ESD will receive, on the high end, approximately 2,024 claims between June 2024 and January 2025. (3,470 claims / 12 month = 289 claims per month * 7 months = 2,024 claims to be processed manually)

It takes approximately 3.6 hours to adjudicate a strike claim. Based on the claims to be processed manually it would take approximately 7,286 hours (2,024 claims * 3.6 hours) or 3.50 FTE

- Tax Policy Specialist 2
 - FY25 (3.50 FTE = \$527,432)

It takes approximately 15 minutes to review each claim for benefit charging. Based on the claims to be processed manually it would take approximately 506 hours (2,024 claims * 0.25 hours) or 0.24 FTE

- ES Benefits Specialist 3
 - FY25 (0.24 FTE = \$31,132)

Total UICS related cost for FY2025: \$527,432 + \$31,132 = \$558,564

Product, Planning & Performance (PPP) Related Cost (one time cost)

PPP is estimating the project to be a large undertaking. The bill will require changes and updates to multiple points in the UI Benefit customer journey, starting at the initial application and progressing through to the end of the claim. PPP is estimating the project to be a large project lasting 3-6 months from project initiation through planning, execution, and closeout. A Project Manager will be needed to manage the project in accordance with appropriate project management methodology. This would include agile/scrum framework and/or initiation, planning, execution, monitoring & controlling, the project from beginning to end. A Product Manager will be needed to ensure legislation is implemented successfully by balancing value, usability, feasibility, and sustainability risks. The specialist will turn project requirements into user stories for the product backlog and ensure that development is done in alignment with the product roadmap. A Product Analyst will be needed to conduct direct user experience research, ensuring union members and non-union members understand the context of new questions and they can accurately respond to them. This will include conducting 1:1 interviews, focus groups, in addition to other ways of gathering user feedback. An Organizational Change Manager will be needed to conduct change readiness assessments, build change plan, and lead the agency in generating awareness, desire, knowledge, ability, and reinforcement of the required bill changes.

- IT Project Manager - Senior/Specialist (Project Manager)
 - FY25 (0.46 FTE = \$91,402)
- IT Policy & Planning - Senior/Specialist (Product Manager)
 - FY25 (0.46 FTE = \$91,402)
- Management Analyst 5 (Product Analyst)
 - FY25 (0.46 FTE = \$74,002)
- WMS 1 (Organizational Change Manager)
 - FY25 (0.46 FTE = \$80,505)

Total PPP related cost for FY2025: $\$91,402 + \$91,402 + \$74,002 + \$80,505 = \$337,311$

Total One Time Cost for FY2025: $\$90,000 + \$151,534 + \$13,541 + \$21,850 + \$558,564 + \$337,311 = \$1,172,800$

On-going Costs

Office of Administrative Hearings

ESD estimates that of the 3,470 new claims approximately 6% or 208 of these claims would be appealed annually.

Appeals (208 appeals = \$74,000)

- FY25 and ongoing = \$74,000

Total Ongoing cost for FY2025 and ongoing: \$74,000