

Multiple Agency Fiscal Note Summary

Bill Number: 2136 S HB	Title: Prevailing wage sanctions
-------------------------------	---

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
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	0	0	0	0	0	0	0

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	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Labor and Industries	.0	0	0	226,000	.0	0	0	0	.0	0	0	0
Total \$	0.0	0	0	226,000	0.0	0	0	0	0.0	0	0	0

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
Department of Labor and Industries	.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

Prepared by: Anna Minor, OFM	Phone: (360) 790-2951	Date Published: Final 2/ 1/2024
-------------------------------------	---------------------------------	---

Individual State Agency Fiscal Note

Bill Number: 2136 S HB	Title: Prevailing wage sanctions	Agency: 100-Office of Attorney General
-------------------------------	---	---

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: Kelly Leonard	Phone: 360-786-7147	Date: 01/26/2024
Agency Preparation: Chad Standifer	Phone: 3605863650	Date: 01/31/2024
Agency Approval: Leah Snow	Phone: 360-586-2104	Date: 01/31/2024
OFM Review: Val Terre	Phone: (360) 280-3973	Date: 02/01/2024

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: New Section. Legislative findings.

Section 2: Amending RCW 39.12.010. Defining “contractor”.

Section 3: New Section. Adding to RCW 39.12 – providing that a contractor with substantially identical operations, corporate, or management structure to an entity that has been debarred or otherwise sanctioned is subject to the same debarment or sanction as that entity; sanctions include penalties, finding of violations that count toward a bar on bidding on public works, and debarment; providing the Department of Labor & Industries (L&I) may enforce this section. The Director of L&I may issue a notice of violation to extend the sanctions of a debarred or sanctioned entity imposed to the contractor, subject to rights of appeal.

Section 4: New Section – providing an effective date of January 1, 2026.

The Attorney General’s Office (AGO) Labor & Industries Division (LNI) has reviewed this bill and determined it will not significantly increase or decrease the division’s workload in representing the Department of Labor & Industries (L&I). LNI anticipates expedited rulemaking and one additional appeal per year of modest complexity. Appeals of this nature take approximately 80 hours assuming they proceed to the hearing level for discovery, briefing, and a few days of hearing time. LNI anticipates no more than 10 hours of legal advice related to expedited rulemaking and implementation, because L&I and LNI were involved in the drafting and technical advice related to the bill. The implementation of the bill is delayed. Expedited rulemaking will not occur until FY 2026 and any litigation will begin in FY 2027. New legal services are nominal and costs are not included in this request.

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.

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: 2136 S HB	Title: Prevailing wage sanctions	Agency: 235-Department of Labor and Industries
-------------------------------	---	---

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
Account					
Public Works Administration	0	226,000	226,000	0	0
Account-State 234-1					
Total \$	0	226,000	226,000	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: Kelly Leonard	Phone: 360-786-7147	Date: 01/26/2024
Agency Preparation: Donald Jenson Jr	Phone: 360-902-6981	Date: 01/31/2024
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 01/31/2024
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 02/01/2024

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.

This bill relates to prevailing wage sanctions, penalties, and debarment, amending RCW 39.12.010, adding a new section to RCW 39.12.

The differences between SHB 2136 and HB 2136 include, but are not limited to:

- Modifying the definition of a contractor.
- Adding section 3(2) establishing requirements for notice, hearings and appeals when the Department of Labor and Industries (L&I) finds that a contractor is substantially similar to another entity that has been sanctioned or debarred under state prevailing wage laws.

These changes do not change the fiscal impact to L&I.

Section 2 amends RCW 39.12.010, adding definitions for contractors.

Section 3 adds a new section to RCW 39.12, allowing the Department of Labor and Industries (L&I) to extend a sanction to a contractor as defined by L&I with substantially identical operations, corporate and/or management structure to an entity that has been debarred or otherwise sanctioned under RCW 39.12.050, RCW39.12.055, RCW 39.12.065, or any associated rule, is subject to the same debarment or sanctions that entity.

Section 3(2) establishes requirements for notice, hearings and appeals when L&I finds that a contractor is substantially similar to another entity that has been sanctioned or debarred under state prevailing wage laws, including:

- Requiring L&I to issue a notice of violation.
- Requiring a hearing to be held following a timely appeal of the notice.
- Requiring L&I to issue a written determination with findings after the hearing, if an appeal is filed.
- Specifying that a notice of violation is final and binding, if not timely appealed.

Section 4 states the effective date of the bill is January 1, 2026.

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 cash receipt impact with regard to penalties is indeterminate. While a slight increase in investigations is likely, it is unknown how many of them will result in penalties.

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.

Appropriated – Operating Costs

This bill increases expenditures to the Public Works Administration account, fund 234. The following assumptions were used to estimate the resources requested to implement this bill.

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.

Contract developers will modify and enhance L&I's Prevailing Wage Compliance Tool application to be able to attach entities deemed to be successors to an investigation.

- \$225,686 is needed for 1,607 contractor hours in the 2023-25 biennium for all information technology changes.

Staffing

L&I is expecting a minimal increase to investigations from this bill. Additional investigations will be prioritized with existing resources.

Rule making

Rule making is necessary to bring rules into alignment with the new law. The expedited rule making process will be used, which does not require hearings. Therefore, no rule making costs.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
234-1	Public Works Administration Account	State	0	226,000	226,000	0	0
Total \$			0	226,000	226,000	0	0

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts		226,000	226,000		
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 \$	0	226,000	226,000	0	0

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

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 legislation would result in rule changes to:

- WAC 296-127-020, Interpretation of phrases used in RCW 39.12