

Multiple Agency Fiscal Note Summary

Bill Number: 2168 HB	Title: Industrial insurance/duties
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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	1,401,000	0	0	2,802,000	0	0	2,802,000
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	1,401,000	0	0	2,802,000	0	0	2,802,000

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	4.6	0	0	1,401,000	9.2	0	0	2,802,000	9.2	0	0	2,802,000
Board of Industrial Insurance Appeals	1.5	0	0	483,520	3.1	0	0	967,040	3.1	0	0	967,040
Department of Labor and Industries	2.4	0	0	2,025,000	4.8	0	0	3,950,000	4.8	0	0	3,950,000
Department of Labor and Industries	In addition to the estimate above,there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
Total \$	8.5	0	0	3,909,520	17.1	0	0	7,719,040	17.1	0	0	7,719,040

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
Board of Industrial Insurance Appeals	.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 2/15/2024
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Individual State Agency Fiscal Note

Bill Number: 2168 HB	Title: Industrial insurance/duties	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		1,401,000	1,401,000	2,802,000	2,802,000
Total \$		1,401,000	1,401,000	2,802,000	2,802,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	9.2	4.6	9.2	9.2
Account					
Legal Services Revolving Account-State 405-1	0	1,401,000	1,401,000	2,802,000	2,802,000
Total \$	0	1,401,000	1,401,000	2,802,000	2,802,000

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: 01/12/2024
Agency Preparation: Dan Jensen	Phone: 360-664-9429	Date: 01/17/2024
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 01/17/2024
OFM Review: Val Terre	Phone: (360) 280-3973	Date: 01/18/2024

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 - Amends RCW 51.14.080 to remove municipal employers from the statute allowing the director of the Department of Labor and Industries (L&I) the ability to withdraw self-insurers from certification.

Section 2 - Amends RCW 51.14.180 to remove municipal employers and self-insured private sector firefighters from the statute requiring self-insurers to exercise certain duties of good faith and fair dealing and other statutory requirements.

Section 4 - New section. The act applies to all claims regardless of date of injury.

Section 5 - New section. Effective date of 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.

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 King County rates:
FY 2025 and in each FY thereafter: \$1,401,000 for 3.2 Assistant Attorney General FTE (AAG), 3.2 Paralegal 2 FTE (PL2) and 1.6 Paralegal 1 FTE (PL1).

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:

Legal services associated with the enactment of this bill will begin on July 1, 2024 (FY 2025).

Location of staffing is assumed to be in a King County 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 FTE (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 Paralegal 1 FTE (PL1) and 0.4 MA.

1. Assumptions for the AGO Labor and Industries Division (LNI) Legal Services for the Department of Labor and Industries (L&I):

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

L&I anticipates an increase of 3,600 referrals from 1,068 starting in FY 2025 and in each FY thereafter to its penalty adjudicators for penalties relating to the newly expanded duties of good faith and fair dealing to employees of self-insured employers. This is an increase of 2,532 anticipated annual referrals. Historically, roughly 10 percent of referrals have resulted in appeals to the Board of Industrial Insurance Appeals (BIIA). Therefore, the baseline expectation would be 253 new appeals; however, there are some factors the proposed legislation that would increase the amount of anticipated appeals. The amount of the penalties can reach 52 times the average weekly wage payable to the worker, and three of these penalties can result in decertification of the self-insured employer. These dollar amounts are much higher, and result in harsher potential consequences to the employer, therefore if this legislation is enacted, the AGO anticipates roughly 50 percent increase in appeal rates increasing the baseline number of appeals.

FY 2025 and in each FY thereafter: An anticipated 380 new appeals are expected and of those 380 appeals roughly 31.6 will result in BIIA appeals per month. 10 appeals per month needs 1.0 Paralegal 2 FTE (PL2) for mediation. 3.2 PL2 would be needed to handle the increased number of appeals ($3.2 \text{ PL2} \times 10 \text{ appeals} = 32 \text{ appeals}$).

PL2, under the supervision of an AAG, will represent L&I at mediation conferences conducted by BIIA. Review appeal files prior to the first conference. Analyze complex legal and factual issues or obtain additional information. Conduct investigation to gather relevant information and documents. Contact other parties in an effort to resolve appeals. Perform legal and medical research as is required by the facts of each appeal. Correspond with others, including potential witnesses and opposing counsel. Prepare proposals for settlement and evaluate proposals from other parties, consulting L&I employees or senior attorneys. Communicate with L&I by memoranda describing accomplished settlements. Position may require travel to outlying counties within the State.

Historical mediation resolution percentage is 40 percent leaving roughly 19.2 to proceed to hearings and assignment to an AAG per month.

FY2025 and in each FY thereafter: 27 appeals per month would result in six BIIA appeals per month. Six appeals needs 1.0 AAG. 3.2 AAG would be needed to handle those appeals that do not resolve in mediation and proceed to litigation or further appeals ($3.2 \text{ AAG} \times \text{six appeals} = 19.2 \text{ hearings}$).

The AAG represents L&I before BIIA and superior courts in industrial insurance cases. Industrial insurance cases present complex legal and medical issues regarding the provision of benefits to injured workers under Title 51 RCW. Proceedings at the BIIA are conducted following Washington Civil Rules and Washington Rules of Evidence. The cases require testimony from medical and vocational experts, as well as lay witnesses. Most cases are tried within three to eight months of the date of assignment. AAG must analyze the file, evaluate the case for settlement possibilities, conduct discovery, handle motions, consult with witnesses, and brief issues within a relatively short time frame. After litigation, AAG must analyze the BIIA decisions for potential appeals of legal issues. AAG also litigates appeals of BIIA decisions to superior court. These appeals often require briefing legal and factual issues based on the record below. Superior court appeals are tried to either a bench or a jury. In the case of jury trials, AAG is responsible for preparing and taking the case to trial, including pretrial motions, jury instructions, voir dire, and opening statement and closing argument.

LNI: Total King County workload impact:

FY 2025 and in each FY thereafter: \$1,401,000 for 3.2 AAG, 3.2 PL2 and 1.6 PL1.

2. The AGO Licensing & Administrative Law Division (LAL) has reviewed this bill and determined it will not increase or decrease the division's workload in representing BIIA. This bill alters the circumstances in which L&I can assert a violation, but the BIIA does not anticipate that it will increase the number of appeals it receives enough to generate

additional legal services. Therefore, no costs are included in this request.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
405-1	Legal Services	State	0	1,401,000	1,401,000	2,802,000	2,802,000
	Revolving Account						
Total \$			0	1,401,000	1,401,000	2,802,000	2,802,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		9.2	4.6	9.2	9.2
A-Salaries and Wages		940,000	940,000	1,880,000	1,880,000
B-Employee Benefits		292,000	292,000	584,000	584,000
E-Goods and Other Services		159,000	159,000	318,000	318,000
G-Travel		10,000	10,000	20,000	20,000
J-Capital Outlays					
Total \$	0	1,401,000	1,401,000	2,802,000	2,802,000

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-Seattle	135,555		3.2	1.6	3.2	3.2
Management Analyst 5	95,184		1.2	0.6	1.2	1.2
Paralegal 1-Seattle	72,528		1.6	0.8	1.6	1.6
Paralegal 2-Seattle	79,992		3.2	1.6	3.2	3.2
Total FTEs			9.2	4.6	9.2	9.2

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Labor & Industries Division (LNI)		1,401,000	1,401,000	2,802,000	2,802,000
Total \$		1,401,000	1,401,000	2,802,000	2,802,000

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: 2168 HB	Title: Industrial insurance/duties	Agency: 190-Board of Industrial Insurance Appeals
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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	0.0	3.1	1.5	3.1	3.1
Account					
Accident Account-State 608-1	0	241,760	241,760	483,520	483,520
Medical Aid Account-State 609-1	0	241,760	241,760	483,520	483,520
Total \$	0	483,520	483,520	967,040	967,040

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: 01/12/2024
Agency Preparation: William Chase	Phone: 360-753-2790	Date: 02/15/2024
Agency Approval: Bob Liston	Phone: 360-753-6823	Date: 02/15/2024
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 02/15/2024

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 amends RCW 51.14.080, removing reference to municipal employers and specifying that all self-insured employers are subject to withdrawal of certification if they have violated the duty of good faith and fair dealing under RCW51.14.180 three times within a three-year period.

Section 2 amends RCW 51.14.180, removing reference to municipal employers and self-insured private sector firefighter employer and specifying that all self-insured employers and third-party administrators have a duty of good faith and fair dealing to workers related to all aspects of this title.

Section 3 states this bill applies to all claims regardless of the date of injury.

Section 4 states this bill 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.

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.

L&I and the Attorney Generals Office expect 2,532 additional penalty requests per year. Historically, approximately 10 percent have resulted in appeals.

253 is the baseline appeal level. (2,532 penalties x 10% = 253).

A 50 percent increase in the baseline appeal level is also expected. With the large monetary incentive associated with this bill, and that three penalties can

result in decertification of the self-insured employer, a higher appeal rate is expected.

Therefore, 380 appeals per year are expected. (253 baseline + 127 increase (50% of baseline) = 380 total).

Based on these assumptions, the BIIA will require 3.07 FTE and \$483,520 in FY2025 and each year after.

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	0	241,760	241,760	483,520	483,520
609-1	Medical Aid Account	State	0	241,760	241,760	483,520	483,520
Total \$			0	483,520	483,520	967,040	967,040

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		3.1	1.5	3.1	3.1
A-Salaries and Wages		295,991	295,991	591,982	591,982
B-Employee Benefits		95,846	95,846	191,692	191,692
C-Professional Service Contracts					
E-Goods and Other Services		82,488	82,488	164,976	164,976
G-Travel		9,195	9,195	18,390	18,390
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	483,520	483,520	967,040	967,040

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 Chief Judge	10,149		0.2	0.1	0.2	0.2
IAJ 3	9,200		0.9	0.5	0.9	0.9
IAJ4	9,911		0.9	0.5	0.9	0.9
LS3	4,842		1.0	0.5	1.0	1.0
Total FTEs			3.1	1.5	3.1	3.1

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: 2168 HB	Title: Industrial insurance/duties	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.
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Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	4.8	2.4	4.8	4.8
Account					
Accident Account-State 608-1	0	1,012,000	1,012,000	1,975,000	1,975,000
Medical Aid Account-State 609-1	0	1,013,000	1,013,000	1,975,000	1,975,000
Total \$	0	2,025,000	2,025,000	3,950,000	3,950,000

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: 01/12/2024
Agency Preparation: Donald Jenson Jr	Phone: 360-902-6981	Date: 01/18/2024
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 01/18/2024
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 01/18/2024

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.

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	0	1,012,000	1,012,000	1,975,000	1,975,000
609-1	Medical Aid Account	State	0	1,013,000	1,013,000	1,975,000	1,975,000
Total \$			0	2,025,000	2,025,000	3,950,000	3,950,000

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		4.8	2.4	4.8	4.8
A-Salaries and Wages		386,000	386,000	772,000	772,000
B-Employee Benefits		139,000	139,000	278,000	278,000
C-Professional Service Contracts					
E-Goods and Other Services		1,448,000	1,448,000	2,896,000	2,896,000
G-Travel		2,000	2,000	4,000	4,000
J-Capital Outlays		50,000	50,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	2,025,000	2,025,000	3,950,000	3,950,000

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
Fiscal Analyst 5	76,607		0.3	0.2	0.3	0.3
Office Assistant 3	46,919		0.5	0.3	0.5	0.5
Worker Compensation Adjudicator 5	84,518		3.0	1.5	3.0	3.0
Worker Compensation Adjudicator 6	91,068		1.0	0.5	1.0	1.0
Total FTEs			4.8	2.4	4.8	4.8

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
See attached.

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 relates to the duties of industrial insurance self-insured employers and third-party administrators.

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

Section 1 amends RCW 51.14.080, removing reference to municipal employers and specifying that all self-insured employers are subject to withdrawal of certification if they have violated the duty of good faith and fair dealing under RCW 51.14.180 three times within a three-year period.

Section 2 amends RCW 51.14.180, removing reference to municipal employers and self-insured private sector firefighter employer and specifying that all self-insured employers and third-party administrators have a duty of good faith and fair dealing to workers related to all aspects of this title.

Section 3 states this bill applies to all claims regardless of the date of injury.

Section 4 states this bill takes effect July 1, 2024.

II. B – Cash Receipt Impact

Receivables – Operating

Cash receipts are indeterminate. The bill will increase the amount of penalties issued by the Department of Labor and Industries (L&I), but L&I has no way to estimate the frequency nor amounts of those penalties.

II. C – Expenditures

Appropriated – Operating Costs

This 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

1.0 FTE, Workers Compensation Adjudicator 6 (WCA6), permanent, beginning July 1, 2024.

Duties include leading and directing multiple work streams, acting as a penalty subject matter expert, and processing penalty requests as a working supervisor. Duties also include working with other areas of the program to track good faith violations, and ensuring workers are informed of their rights. Duties also include writing and updating communications, keeping web information up-to-date, and developing and monitoring data and reporting needs regarding penalties and ad hoc reports as requested. Additionally, the WCA 6 will coordinate, supervise and direct the seven WCA 5s and one OA3s assigned to the unit. They will oversee day-to-day operations of the team to ensure accuracy and compliance with rules, policy and established work standards and process. The WCA 6 will participate in the development of rules, policies, tasks, procedures and performance standards needed to ensure consistent work is performed by members of the team. This is based on the following assumptions:

- 3 Workers Compensation Adjudicator 5 (WCA5) are currently on the penalty adjudication team.
- 1 WCA5 will be hired July 1, 2024.
- 0.5 FTE Office Assistant 3 (OA3) will be hired July 1, 2024.
- An additional 3 WCA5s and 0.5 OA3 are needed to implement this bill.
- A total of 8 FTEs will be on the penalty adjudication team.

3.0 FTE, Workers Compensation Adjudicator 5 (WCA5), permanent, beginning July 1, 2024.

Duties include issuing legal determination for final disposition of claimants' and self-insurance staff requests for penalties on industrial insurance claims based on the merits and facts found within the claim file. Duties include assigning, tracking, and reviewing recommendations from level 3, 4 and 5 adjudicators, including the medical compliance consultant, to determine appropriateness of assessment or denial of penalties against self-insured employers per statutes and rules. Duties also include reviewing penalty recommendations, and calculating dollar amount of penalties. Duties also include referring appeals to the Board of Industrial Insurance Appeals (BIIA), giving depositions related to decisions made on specific claims, testifying on facts related to department action for all penalty appeals at the BIIA. To resolve appeals, makes recommendations of approval/denial of settlements to the Self-Insurance Program Manager.

Duties also include answering phone calls, assisting workers, employers and third party administrators with questions and concerns. This is based on the following assumptions:

- For the last six months of 2023, 534 penalty requests were received. That is a rate of 1,068 penalty requests per year. That is a 71% increase from 2022's level of 625 penalty requests.
- For the last six months of 2023, each WCA5 Penalty Adjudicator completed an average of 45 reviews per month, or the rate of 540 per year.
- 2,532 additional penalty requests per year are expected. With the large monetary incentive associated with this bill, as well as the department's duty to investigate "upon its own motion", the number of penalty request is expected to increase by 150 – 200 percent.
- 3,600 total penalty requests are expected per year. (1,068 current + 2,532 estimated with passage of this bill = 3,600)
- 7 WCA5s total will be needed to handle the volume of penalty requests. (3,600 penalty requests / 540 per WCA5 = 6.7)
- 3 WCA5 are currently on staff.
- 1 WCA5 will be hired July 1, 2024.
- Therefore, 3 additional WCA5 FTE are needed.

0.5 FTE, Office Assistant 3 (OA3), permanent, beginning July 1, 2024. Duties include providing administrative, non-adjudicative support to penalty adjudicators, reviewing and analyzing incoming document types, creates work items for penalty adjudicators and/or routes the imaged document to the appropriate party. Duties include reviewing BIIA documents, identifying ones that need further adjudicative action and creating a work item for the claim adjudicator. Duties also include identifying new protests to determinative orders and disputes to penalty adjudicator, and sending out acknowledgment letters to the parties. Duties also include handling incoming phone calls and returns voicemails in a timely manner as it pertains to basic claim processing questions, protests, and appeals. This is based on the following assumptions:

- 3,600 total penalty requests per year.

- Reviewing incoming mail, creating work items - 25 hours per month, or 300 hours per year.
- Processing and tracking certified mail – 50 hours per month, or 600 hours per year.
- Tracking proof of payment, sending follow up letters as necessary – 37 hours per month, or 444 hours per year.
- Answering/returning phone calls – 12 hours per month, or 144 hours per year.
- Coordinating language translations – 20 hours per month, or 240 hours per year.
- Other administrative duties – 10 hours per month, or 120 hours per year.
- Tasks equal 1,848 hours per year. ($300 + 600 + 444 + 144 + 240 + 120 = 1,848$)
- Therefore, 1.0 OA3 FTE is needed for the total workload. ($1,848 \text{ hours} / 2,088 \text{ FTE hours} = 0.89 \text{ FTE}$)
- 0.5 FTE Office Assistant 3 (OA3) will be hired July 1, 2024.
- Therefore, 0.5 additional OA3 is needed.

The potential for additional staff exists, in cases where the self-insured employer is decertified due the provisions in this bill, and defaults on their claims obligations. This is indeterminate at this time.

Attorney General – Legal Services

\$1,401,000 is needed annually, beginning in fiscal year 2025, for 3.2 FTE Assistant Attorney General (AAG), 3.2 FTE Paralegal 2, and 1.6 FTE Paralegal 1 for legal services. The following assumptions were used to calculate the estimates:

- 2,532 additional penalty requests per year are expected.
- Historically, approximately 10 percent have resulted in appeals.
- 253 is the baseline appeal level. ($2,532 \text{ penalties} \times 10\% = 253$)
- A 50 percent increase in the baseline appeal level is expected. With the large monetary incentive associated with this bill, and that three penalties can result in decertification of the self-insured employer, a higher appeal rate is expected.
- Therefore, 380 appeals per year are expected. ($253 \text{ baseline} + 127 \text{ increase (50\% of baseline)} = 380 \text{ total}$)

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	0	14,000	14,000	14,000	14,000	14,000
609	Medical Aid	0	14,000	14,000	14,000	14,000	14,000
	Total:	\$0	\$28,000	\$28,000	\$28,000	\$28,000	\$28,000

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.