

Individual State Agency Fiscal Note

REVISED COPY
10/25/07

Bill Number: 5659 2S SB AMH WARN REIN 150	Title: Family & medical leave ins	Agency: 235-Department of Labor and Industries
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

FUND					
Total \$					

Estimated Expenditures from:

	FY 2008	FY 2009	2007-09	2009-11	2011-13
FTE Staff Years	11.0	23.4	17.2	43.8	47.6
Fund					
Family Leave Insurance Account-State 14F-1	3,283,465	9,749,331	13,032,796	13,477,064	14,490,090
Family Leave Insurance Account-Non-Appropriated 14F-6	0	0	0	61,600,000	71,900,000
Total \$	3,283,465	9,749,331	13,032,796	75,077,064	86,390,090

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: 10/13/2007
Agency Preparation:	Phone:	Date:
Agency Approval:	Phone:	Date:
OFM Review:	Phone:	Date:

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

See Attachment

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

See Attachment

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

See Attachment

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2008	FY 2009	2007-09	2009-11	2011-13
FTE Staff Years	11.0	23.4	17.2	43.8	47.6
A-Salaries and Wages	589,418	1,237,223	1,826,641	3,768,964	3,991,759
B-Employee Benefits	199,739	416,494	616,233	1,299,185	1,381,486
C-Personal Service Contracts				62,500	62,500
E-Goods and Services	915,069	7,474,033	8,389,102	6,772,974	7,710,605
G-Travel	25,624	12,333	37,957	93,075	116,215
J-Capital Outlays	1,553,615	609,248	2,162,863	1,480,366	1,227,526
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services				61,600,000	71,900,000
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
Total:	\$3,283,465	\$9,749,331	\$13,032,796	\$75,077,064	\$86,390,091

III. B - 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 2008	FY 2009	2007-09	2009-11	2011-13
AA3	35,928	0.5	1.0	0.8	0.2	
Actuarial Analyst 2	54,504				1.0	1.0
Admin Regulatory Analyst	43,572	0.5	1.0	0.8	1.0	1.0
Communication Consultant 3	47,016	0.3	1.0	0.7	1.0	1.0
CSS 2	32,688	0.5	2.0	1.3	3.8	4.0
Fiscal Analyst 2	40,524	0.8	1.1	1.0	4.3	5.0
FML Prgrm Manager	70,000	0.5	1.0	0.8	1.0	1.0
Graphics Designer 2	43,572	0.3	1.0	0.7	0.8	0.5
Industrial Relation Specialist 2	45,828				1.0	2.0
Industrial Relation Specialist 3	49,368				1.0	1.0
Investigator 2	45,828				1.0	1.0
ITS 3	57,240				1.8	2.0
ITS 4	63,192	1.5	3.0	2.3	3.2	3.0
ITS 5	69,756	0.5	1.0	0.8	0.2	
Office Assistant 2	27,804	0.5	1.0	0.8	1.7	2.0
Office Assistant 3	29,784	0.5	1.0	0.8	5.2	6.0
Office Support Supervisor 2	36,756	0.1	0.3	0.2	0.6	0.6
Project Director	75,000	0.5	1.0	0.8	0.2	
Project Lead	70,000	1.0	2.0	1.5	0.3	
Project Manager	70,000	1.0	2.0	1.5	0.3	
Unemployment Ins Specialist 1	34,260				4.5	5.0
Unemployment Ins Specialist 2	37,620	0.5	1.0	0.8	3.7	4.0
Unemployment Ins Specialist 3	40,524	0.5	1.0	0.8	2.7	3.5
Unemployment Specialist 6	49,368	0.5	1.0	0.8	1.0	1.0
Workers Comp Adjudicator 4	51,864	0.5	1.0	0.8	2.0	2.0
Workers Comp Adjudicator 5	55,836				1.0	1.0
Total FTE's		11.0	23.4	17.2	43.8	47.6

Part IV: Capital Budget Impact

None

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

See Attachment

Part II: Explanation

This legislation establishes a family leave insurance program that allows parents to bond with a newborn or newly adopted child. It establishes a maximum family leave insurance benefit of \$250 per week for those working thirty-five hours or more a week, for a maximum of five weeks, after a waiting period of seven calendar days during which benefits are not payable. Prorated benefits are included for individuals who take less than thirty-five hours of leave in a week and for individuals who regularly work fewer than thirty-five hours per week. It provides employment protection for workers, except for individuals employed in businesses with 25 or fewer employees. It also requires that an individual who receives family leave insurance benefits or earns waiting period credits must be restored to a position of employment with the employer at the established ending date of the leave.

The Department of Labor and Industries prepared this fiscal note pursuant to a request from the Joint Legislative Task Force on Family Leave Insurance. We were directed to prepare the fiscal note with the assumption that “department” refers to the Department of Labor and Industries. This fiscal note is written for the legislation as enacted in 2007 and does not include the fiscal impact for any program elements not included in the legislation.

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

Section 2: Creates Joint Legislative Task Force.

Section 4: Provides that the department will:

- Establish and administer a family leave insurance program and pay family leave insurance benefits.
- Establish procedures and forms for filing claims.
- Notify an employer within five business days of a claim being filed.
- Share information and integrate technology with the Employment Security Department (ESD) as long as the claimant consents to the disclosure as required under section 5(4).
- Information in the files and the records is confidential, except to:
 - Public employees in the performance of their duties.
 - The claimant or an authorized representative.
 - The employer or the employer’s representative.
 - The department has discretionary authority to allow other persons to review records when assisting the department during proceedings on any matter pertaining to the administration of this statute.
- Develop and implement an outreach program to make workers aware of the program, eligibility requirements, claims process, benefit amounts, notice and medical certification requirements, reinstatement and nondiscrimination rights, confidentiality, and other family leave rights and benefits. This will be made

available in English and other primary languages, as defined in current statute which states, "primary languages includes but is not limited to Spanish, Vietnamese, Cambodian, Laotian, and Chinese".

Section 5: Provides that a person qualifies for family leave benefits, beginning October 1, 2009, if the person:

- Files a claim for benefits in each week the individual is on family leave.
- Has been employed at least 680 hours during the qualifying year.
- Establishes an application year.
- Consents to disclosure of confidential information from the Employment Security Department.
- Discloses whether he or she owes child support.
- Documents that he or she provided the employer with written notice of the individual's intentions to take family medical leave in the same manner as an employee is required to provide notice in RCW 49.72.250.

Section 6: Provides the basis for disqualifying individuals from family leave insurance benefits. A person can be disqualified for a period of 52 weeks when the individual makes a willful false statement or misrepresentation of a material fact, or when the individual willfully fails to report a material fact, to obtain benefits.

Section 7: Provides the following requirements for duration of benefits:

- The maximum family leave insurance benefits payable in an application year is five weeks, following a seven calendar day waiting period, whether the leave is employer paid or unpaid.
- Benefits must be paid within two weeks after the claim is filed or when the family leave began, whichever is later. Future payments must be made twice a month.
- Benefits paid can be recouped from future payments on any family leave insurance claim if a timely appeal is filed and the final decision is that the payment was improper. The director may exercise discretion to waive the amount of the payments, in whole or in part.
- If an individual dies before receiving benefit payment, the payment is made by the department and distributed consistent with the decedent's will or, if there is no will, to the estate.

Section 8: Establishes the level of benefits payable.

- The weekly family leave insurance benefit is \$250 per week for an individual who at the time of beginning family leave was regularly working thirty-five hours or more per week.
- The weekly benefit for an individual regularly working thirty-five hours per week or more who is on family leave for less than thirty-five hours but at least eight hours per week is 0.025 times the maximum weekly benefit times the number of hours of family leave insurance taken in the week. Benefits are not payable for less than eight hours family leave taken in a week.

- The department must calculate a prorated weekly benefit schedule and minimum number of hours of family leave insurance that must be taken in a week for an individual regularly working less than thirty-five hours per week to qualify for benefits. The prorated schedule will be based on the amounts and calculations specified for an individual regularly working thirty-five hours or more per week who takes at least eight hours but less than thirty-five hours of family leave in a week.
- The department must notify the appropriate child support enforcement agency and withhold benefits consistent with unemployment insurance recipients.
- The individual can elect to have the department withhold federal income tax, if the Internal Revenue Service determines that benefits under this program are subject to the federal tax.

Section 9: Requires the department to advise an individual that: benefits are subject to federal income tax (if that determination is made by the IRS) and the department will specify the requirements pertaining to estimated tax payments, and that the individual may elect to have federal withholding tax deducted from their benefits and is permitted to change a previously elected withholding status. Monies deducted and withheld from benefits remain in the family leave insurance account until transferred to the federal taxing authority as a payment of income tax. The department must follow IRS procedures for deducting and withholding income tax.

Section 10: Applies the overpayment assessment and willful misrepresentation provisions of the workers' compensation statute to family leave insurance benefits and requires the department to seek repayment of benefits. Appeals are governed by section 14 of this act.

Section 11: Provides leave and employment protection for some individuals entitled to family leave insurance benefits only if the employer from whom the individual takes family leave employs more than twenty five employees and if the individual has been employed for at least twelve months by that employer and for at least one thousand two hundred fifty hours of service with that employer during the previous twelve-month period. Requires the employer of an individual entitled to employment protection under this section to be restored to a position of employment in the same manner as an employee entitled to leave under chapter 49.78 RCW, as specified in RCW 49.78.280. This section is to be enforced as provided in Chapter 49.78 RCW and does not apply to individuals employed by an employer with 25 or fewer employees.

Section 12: Provides that in cases of spouses or people involved in a legal relationship governed by Title 26 RCW employed by the same employer, the employer may require that family leave not be taken concurrently.

Section 13: Establishes elective coverage:

- Allows self-employed persons and employers of individuals not covered by this act to elect coverage for all individuals in their employ for a period of not less than three years.
- The employer or self-employed person must file a notice of election in writing to the director. The election becomes effective on the date of filing the written notice.
- Employers and self-employed individuals who elected coverage may withdraw from coverage within thirty days after the end of the three-year coverage period, or at

other times as the director prescribed by rule, by filing written notice with the director, and, within five days, must provide written notice of the withdrawal to all employees in the employer's employ.

Section 14: Provides an appeal process and timeframes for an individual aggrieved by a decision of the department.

- Notice of Appeal must be filed with the director, by mail or personally, within thirty days after the date the department's decision was communicated to the person.
- Appeals are assigned first to an administrative law judge, then to the Director, with further appeal to Superior Court.
- Allows an administrative law judge or court to award reasonable attorneys fees and costs to the prevailing party when a decision of the department is reversed or modified.
- Attorney fees and costs owed by the department are payable from the Family Leave Insurance Account.

Section 15: Prohibits discriminatory or retaliatory acts against a person who has filed or communicated to the employer an intent to file a claim, complaint or appeal, has testified or is about to testify, or has assisted with any proceeding related to family leave insurance, including during the waiting period. Enforcement shall be as provided in RCW 51.48.025.

Section 16: Specifies that:

- Family leave must be taken concurrently with any leave taken under the federal Family and Medical Leave Act of 1993 or under 49.78 RCW.
- An employer may required that family leave be taken concurrently or otherwise coordinated with leave allowed under the terms of a collective bargaining agreement or employer policy for the birth or placement of a child. The employer must give written notice of this requirement to all individuals in its employ.
- This act does not diminish an employer's obligation to comply with other laws, collective bargaining agreements, or employer policies that provide greater rights to leave from employment or benefits than the rights provided under family leave insurance.
- An individual's right to family leave insurance may not be diminished by a collective bargaining agreement entered into or renewed or an employer policy adopted or retained after the effective date of this section.
- Any agreement by an individual to waive his or her rights under the family leave insurance act is void.

Section 17: No continuing entitlement or contractual right is created. The legislature reserves the right to amend or repeal all or part of this chapter at any time. A benefit or other right granted under this chapter is subject to the legislature's power to amend or repeal.

Section 18: Allows the adoption of rules necessary to implement this legislation which is consistent with the rules under the Federal Family and Medical Leave Act of 1993,

and chapter 49.78 RCW, to the extent the rules are not in conflict with the provisions of this statute.

Section 19: Establishes the Family Leave Insurance Account in the custody of the state treasurer.

- Expenditures may only be used for the family leave insurance program.
- Only the Director of the Department of Labor and Industries or the director's designee may authorize expenditures from the account.
- This account is subject to allotment procedures under current statute. An appropriation is required for administrative expenses, but not for benefit payments.

Section 20: Authorizes the State Investment Board to invest funds in excess of the amount deemed sufficient to meet current expenditures and to reinvest, manage, contract, or sell or exchange investments acquired with such excess funds.

Section 21: Adds the Family Leave Insurance Account to the list of accounts in RCW 43.79A.040 that are allowed to receive their proportionate share of earnings, based on the average daily balance for the period.

Section 22: Allows the Director of the Department of Labor and Industries to lend funds from time to time, if necessary for the initial administration of the family leave insurance program, from the Supplemental Pension Fund to the Family Leave Insurance Account before July 1, 2009 solely for the initial administration of the family leave insurance program. Such loans and earnings realized must be repaid within two years of the date of the loan. This section expires October 1, 2011.

Section 24: Amends RCW 51.44.033 to allow loans from the supplemental pension fund to the Family Leave Insurance Account.

Section 25: Requires the department to report annually to the Legislature, beginning September 1, 2010, on projected and actual participation, premium rates*¹, fund balances, and outreach efforts.

Compared to previous version of this legislation, E2SSB 5659:

- **Establishes a joint legislative task force to study family leave insurance and report recommendations to the legislature, including legislation, of how the program should be funded, which state agency should be directed to administer the family leave insurance program, and government efficiencies that should be adopted.**
- **Eliminates coverage for one's own serious health condition.**
- **Eliminates the definition of "domestic partners" and instead added "a person involved in a legal relationship governed by Title 26 RCW" to the definition of family member.**

¹ Premium collection was removed from E2SSB 5659.

- Changes the effective date for eligibility for benefits under Section 4 to October 1, 2009 (from July 1, 2009).
 - Eliminates language that precluded an individual from collecting family leave insurance benefits while collecting workers' compensation, unemployment compensation, crime victims' compensation, or disability insurance.
 - Excludes individuals employed by employers with 25 or fewer employees from the employment protection provisions under section 10. These employees are still eligible for FLI benefits.
 - Allows the Director of the Department of Labor and Industries to lend money from the Supplemental Pension Fund from time to time before July 1, 2009 for the purpose of administering the program and paying benefits. E2SSB requires the loan to be repaid within two years of the date of the loan. This section expires October 1, 2011.
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II. B – Cash Receipt Impact

The funding method for the Family Leave Insurance program is not established in the legislation. The Joint Legislative Task Force on Family Leave Insurance will make recommendations to the legislature by January 1, 2008, including how the new program should be funded and which agency should administer the program.

A loan, paid back with interest from the Supplemental Pension Account, is authorized for start-up costs. The amount of the loan and the amount of interest cannot be determined without knowing when work will actually begin and what the funding source would be.

II. C – Expenditures

The Family Leave Insurance program will administer claims and pay the benefits from a yet to be determined funding source. There will be a newly established dedicated fund that will only be used for the purposes of the program. The account is subject to the allotment procedures (administrative/operating budget), but an appropriation is not required for benefit payments (non-appropriated).

Benefits Costs (non-appropriated):

The following assumptions were used to calculate an estimate of the family leave benefits paid.

Benefit payments will begin October 1, 2009. All benefits paid out are expenditures from the non-appropriated Family Leave Insurance Account.

Based on the 3,109,900 employed workforce during Fiscal Year 2005 (data provided by the Employment Security Department), it is estimated that there will be 3.4 million

employed workers in Washington State during Fiscal Year 2010. For purposes of family leave insurance, this number can be reduced by:

- Approximately ten percent (for workers who are self-employed and do not elect coverage) to 3.06 million;
- Additional nine percent for workers who are employed fewer than 680 hours a year and do not qualify.

This reduces the workforce number to approximately 2.754 million. We also assume that the number of births will be 92,500 in Fiscal Year 2010 up from 82,705 births for 2005. We expect 74,925 of these births ($92,500 \times 0.9 \times 0.9 = 74,925$) will occur to people covered and eligible for benefits under this new program.

Because this is a new insurance system, the beginning utilization of benefits would be less than one would expect in a mature insurance system. We assume the utilization of benefits to increase at eight percent per year until the system matures in the sixth year. We assume the number of claims in the first year to be 68.058 percent of the sixth year. Each year thereafter the number of claims will increase by eight percent. This assumption is based on three consecutive years' worth of eight percent utilization increases observed when the Family Leave part of the California system began in 2004. Please refer to Table C below for the percent change and number of claims expected in each of the six years.

We estimated the number of claims for the sixth or mature year based on the frequency of claims in California, which has systems similar to what is proposed. We looked at the Maternity Care benefits portion of the state disability insurance (SDI) system and the Family Leave portion of the California system for estimates of the Washington Family Leave claim frequency.

The Leave for Maternity Care and New Child claim frequencies were estimated based on the frequency per covered births in California. The Maternity Care claims were 42.4 percent of covered births in California in Fiscal Year 2007. However, with the shorter benefit duration we would expect eight percent fewer claims or 39.0 percent of covered births. Because the new Washington system does not have Maternity Care benefits, we estimate that for the Maternity Care benefits cases not receiving the bonding with child benefit in California, that in Washington they would get the bonding with child benefit.

In California, the New Child benefit is in addition to the Maternity benefit with two separate benefit maximums. Because the data for Family Leave program for New Child came from only the immature third year of the new program we increased its frequency by eight percent to obtain the estimated mature fourth year frequency assuming that California will reach maturity in four years (two years earlier than the Washington program). The California Family Leave for New Child care mature frequencies are estimated to be 8.1 percent for male parents; 1.2 percent for female parents that did not file for the Maternity Care benefits. We are assuming an additional 1.2 percent is assumed for adoptive female parents. Applying these claim frequencies to the expected 74,925 covered births we obtain the following estimates:

- 29,800 ($=74,925 \times 39.0\%$) to be New Child Bonding with female parent due to maternity

- 1,800 (=74,925 X 1.2% + 1.2%) to be additional new and adoptive child bonding with female parent.
- 6,100 (=74,925 X 8.1%) to be New Child male parent.

Table C below summarizes the number of expected allowable claims by year.

Table C

ESTIMATED ACCEPTED CLAIM VOLUMES				
(Based on 92,500 births in 2010)				
YEAR	New Child Female Parent - Maternity (Accepted)	New Child Female Parent - Additional new and adoptive child bonding	New Child Male Parent (Accepted)	Total Estimated Accepted Claims
6TH Year - Maturity	29,800	1,800	6,100	37,700
5TH Year	27,600	1,700	5,600	34,900
4TH Year	25,500	1,500	5,200	32,200
3RD Year	23,700	1,400	4,800	29,900
2ND Year	21,900	1,300	4,500	27,700
1ST Year	20,300	1,200	4,200	25,700
DURATION:	5.0 weeks	4.6 weeks	3.7 weeks	Average Duration: 4.43 weeks

The above table includes only the estimated number of claims paid. L&I staff will also have to process claims that ultimately are denied benefits. For this fiscal analysis, the number of claims denied is assumed to be 12 percent of all claims filed. This denial rate is similar to workers' compensation claims. The result is approximately 31,500 claims received in the first year (3,800 claims denied plus 27,700 claims paid for a total of 31,500 claims adjudicated).

The benefit payments are \$250 per week for workers that worked thirty-five hours or more per week and prorated for those working less than thirty-five hours per week. This is the maximum allowed benefit for up to five weeks in an application year. Based on data from Employment Security Department (ESD) it is estimated that the average worker is working 96.93 percent of fulltime. Hence the expected average weekly benefit will be \$242.32 (= \$250 X 96.93%).

We expect \$29,700,000 in benefits paid in the first year, \$31,900,000 in the second year, \$34,600,000 in the third year, \$37,300,000 in the fourth year, \$40,300,000 in the fifth year, and \$43,600,000 for the sixth year of the program. We have not assumed any inflation in these numbers. Table D shows all these estimated claim counts and costs:

Table D

Projected Claim Counts and Costs					
Eight Percent Increase in Annual Utilization					
Based on the California Paid Family Leave Insurance program					
Assumes Six Years To Reach Program Maturity					
	Claim Maturity Schedule	Accepted Claim Counts	Rejected Claim Counts	Total Filed Claims Count	Benefit Costs
6TH Year - Maturity	100.000%	37,700	5,100	42,800	\$43,600,000
5TH Year	92.593%	34,900	4,800	39,700	\$40,300,000
4TH Year	85.734%	32,200	4,400	36,600	\$37,300,000
3RD Year	79.383%	29,900	4,100	34,000	\$34,600,000
2ND Year	73.503%	27,700	3,800	31,500	\$31,900,000
1ST Year	68.058%	25,700	3,500	29,200	\$29,700,000

Family Leave Program Implementation Costs (appropriated):

Management, supervisors, public relations staff, adjudicators, and Information Services technology staff would be hired immediately to perform project management; computer programming; rule development and analysis; job class analysis and recruitment; and equipment purchasing.

IT System Development

A total of 86,844 IT system programming hours will be needed to create and implement a new Family Leave Insurance data base system. This will be accomplished using a combination of L&I staff and contract programmers. It is assumed that L&I staff can complete 23,520 of these hours. The remaining 63,324 hours will be done by contract programmers at a cost of \$100 per hour.

The contract programming cost is estimated at \$6,332,400 (\$100 x 63,324 hours), Additional contractor hours for a Project Oversight/Quality Assurance Consultant (1,200 hours @ \$175 per hour) are also included. Total Information Technology cost over six years (including permanent and project FTEs) will be \$14,382,225.

Please refer to Table E below for a summary of the required IT system work. Computer programming will require approximately 24 months to develop, test, and implement the basic technology systems.

Table E

INFORMATION TECHNOLOGY SYSTEMS DEVELOPMENT		
System	Description	Est. Hrs.
Self-Employed Coverage Tracking	This is creation of a system to track employers and self-employed individuals who elect coverage. The scope of the system is a web based system to capture filing, coverage start and end dates and tracking, if the employer renewed elected coverage.	500
Program Area System Application Server Deployment	Includes installation and configuration of additional server hardware, software and applications for new web based system. This includes custom interfaces with other agency systems and shared services including Shared Security Service, MQ messaging®, and Integrated Document Management (IDM).	9,360
Federal Income Tax Withholding	Create a new system to withhold and report Federal Income Tax.	3,600
Data Warehouse System	Create a data warehouse database within the existing agency data warehouse that can be used for agency trend analysis and reporting purposes. This helps determine the effectiveness of our new systems over time.	2,340
Integrated Document Management	Includes document scanning, indexing, specialty indexing administration, claims review, faxing, and external file copy services from electronic media or paper copy.	8,772
Claim System	Includes Benefit Payment, Claims Appeals/Protest Tracking, Claims Management/Adjudication, Claims Overpayment/Collection/Accounts Receivable and the Benefit Calculation System.	7,784
	Total Estimated Hours:	86,844

One-time equipment purchases in 2007 are required to begin development of systems. This cost is estimated at \$748,337 and shown in Table F below.

Table F

Quantity	One-Time Equipment Item	Cost Per Yr.	Total
9	Additional Windows 2003 Servers: 2 Application Services Servers 1 SQL Server Database Server 1 WEB Server 4 DIS Pre-Production Dev Servers 1 L&I Web Applications Development Services (WADS) Host Server	\$16,994 \$16,994 \$16,994 \$16,994 \$12,000	\$147,952
2	Disk Storage Array: 1 Database & Identity Management fast online retrieval 1 IDM permanent legal copy	\$144,000 \$96,000	\$240,000
1	DASD for Data Warehouse	\$7,000	\$7,000
2	CPUs licenses for Redbrick	\$20,000	\$40,000
1	High-Speed Scanner, PC workstation, and supporting hardware and software	\$59,657	\$59,657
1	Desktop Scanner, PC workstation, and supporting hardware and software	\$15,853	\$15,853
1	Scan Capture Windows 2003 Server	\$40,000	\$40,000
1	External case file media "printer" and electronic media such as CD-ROM	\$100,000	\$100,000
1	Batch Printer, PC workstation, and supporting hardware and software	\$5,585	\$5,585
1	Fax board to existing Fax Server	\$4,090	\$4,090
2	Mainframe MIPS ¹ in support of agency infrastructure integration including Message Queues (\$1,425 x 12 mo x 2 MIPS) ₂	17,100	\$34,200 (represents 1 st year)
30	Business Process Management Licenses	\$1,800	\$54,000
Total One-Time Equipment Costs:			\$748,337

² MIPS or Millions of Instructions Per Second is a technical term used to describe the measurement of the processing power consumed from the mainframe. Each time someone accesses data or adds data to the mainframe database it is considered an "instruction." Examples of other types of instructions to the mainframe include: add a number, or get a piece of data, or write a response to a request for data, or each instruction to store a new piece of data. DIS charges agencies for each 10 MIPS incremental increase in usage.

There will be a total of seven temporary IT project staff, beginning in January 2008, through September 2009. Five permanent IT staff FTEs are required to maintain the new system starting in FY 2010.

Other Misc. and IT Costs

Software support, software/hardware licenses and maintenance fees will be needed each year starting July 1, 2008. These are listed below in Table G.

Table G

Item	Cost per Year
Maintain Windows Server Leases	\$147,952
Disk Storage Array	240,000
High-Speed Scanner sub-system	11,325
Desktop Scanner sub-system	6,489
Scan Capture Windows 2003 Server	30,000
External case file media "printer" and electronic media such as CD-ROM	100,000
Batch Printer sub-system	2,202
Mainframe MIPS	34,200
Bus. Process Management Licenses	37,080
TOTAL:	\$609,248

FTE and Operating Costs (appropriated on-going):

Ongoing operation and administrative costs would be paid from the newly established Family Leave Insurance Account.

Based on L&I's current experience in adjudicating simple workers' compensation claims, the caseload estimate for the family leave insurance program is 500 claims per manager per month. The estimated FTE need for family leave claims initiation is based on the assumption that the 29,200 total claims expected in the first year (42,800 in the sixth year) will require approximately one-half the data entry time as the agency's current worker's compensation claims. The estimated FTE need is based on the assumption that there will be fewer than 10 total documents per family leave insurance claim.

Please note that the total staffing estimates below are conservative. Field staff and the Office of Information and Assistance staff are responsible for some outreach efforts and it is anticipated they will receive an increased number of phone calls and inquiries about the new program. Four additional FTEs and marketing costs related to the bill's requirement that the department perform outreach are included.

The permanent and project FTEs assumed to implement the new program and for ongoing operating tasks are shown in Attachment C. These staff FTEs are assumed to be at classification level equivalent to Unemployment Insurance Specialists plus office support staff. The staff will be hired as the case load increases based on the assumptions shown in Table C above. We will need a program manager and a program

expert lead right away in January 2008 with the number of staff increasing each year up to a total of 27.3 FTEs by Fiscal Year 2013.

Rules and Printing Costs

Initial costs of rule promulgation, primarily to conduct six public hearings and the printing and dissemination of information to workers and employers is estimated at \$69,000. (\$60,000 for a one-time printing and mailing of information to all employers and \$1,500 for each of six hearings including meeting room rental, court reporter fees, and travel.)

A one time cost for printing is included to produce new claim forms and an accompanying brochure estimated at \$40,000.

Legal Costs: Office of Administrative Hearings (OAH) and Judicial Review

To calculate the legal costs Labor and Industries coordinated with Employment Security to make assumptions on the number of appeals that would be filed. We agreed that approximately 2.7 percent of all claims filed would result in an appeal to OAH. This represents approximately one fifth of the appeals that occur on UI.

To calculate costs, we assumed that each appeal would cost \$484 at OAH. We also assumed that we would need an Assistant Attorney General (AAG) representing the department on each of the appeals at OAH since, if the department were to lose the case, we would be faced with paying legal costs which could be more than five times the benefit amount owed to the claimant. We assumed that each AAG would handle a workload of approximately 325 cases a year at a yearly cost of \$208,000. (\$17,300 a month per AAG FTE). We also assumed that one paralegal from the AAG's staff, costing a total of \$96,000 a year would be permanently assigned to this task.

We also assumed that approximately 10 percent of the cases reviewed by OAH would seek second level review with the director. This is a similar appeals rate that ESD experiences with unemployment insurance claims, which have an appeal process through OAH. Approximately ten cases a year would proceed on to superior court. AAG costs for director's level review are similar to costs at OAH and we assumed each case at superior court would cost \$1,000 per case, plus any attorney fees awarded in cases where the decision is modified or reversed.

Included in our legal cost estimate are the potential costs of attorney fees and court costs that can be set by an Administrative Law Judge (ALJ) in the current language of the bill. We assumed that in 20 percent of the cases at OAH an ALJ will either reverse or in some way amend the department's decision. In each of those cases the ALJ may award attorney's fees.

We estimated the costs for attorney's fees would be based on 32 hours prep + 4 hrs per hearing at \$160 per hour = \$5,760 per case for attorney fees. The hourly rate is the average the state currently pays when we must pay opposing council's legal fees. Please refer to Table H below.

**Table H
Estimated Appeals**

YEAR	Fiscal Year	Estimated Number of Appeals	Estimated OAH Costs	AG cost at OHA	Attorney fees	Cost of Superior Court	Total Legal Costs
1 st Year	FY 2010	788	\$381,392	\$650,752	\$907,776	\$10,000	\$1,949,920
2 nd Year	FY 2011	851	\$411,884	\$695,104	\$980,352	\$10,000	\$2,097,340
3 rd Year	FY 2012	918	\$444,312	\$742,272	\$1,057,536	\$10,000	\$2,254,120
4 th Year	FY 2013	988	\$478,192	\$791,552	\$1,138,176	\$10,000	\$2,417,920

Employment Standards

The L&I Employment Standards Program in the Specialty Compliance Services Division is charged with handling the complaints related to this proposed law. They expect complaints in two categories:

- Benefits not received as allowed under the law -- Based on labor statistics we assume there are approximately 200,000 employers in the state. We also assume that the majority of employers or 98 percent will comply with the law. At the two percent non-compliance rate, we expect 4,000 complaints will be filed. It is further assumed that 99 percent, of these complains will be resolved by action of the L&I agent, and 1 percent or 40, will move on to litigation.
- Job discrimination – These complaints include loss of job or demotion when family leave is used. We expect the majority of these complaints will be generated from small businesses which make up approximately half of the state’s employers or 100,000 employers. Assuming a 98 percent compliance rate, we expect an additional 2,000 complaints related to job discrimination, denial of family leave, and denial of employment after taking leave will be filed with the department. Consistent with the assumptions above, 99 percent of these will be resolved through L&I and 1 percent (an estimated 20 complaints) will move on to litigation.

To handle the expected workload of 6,000 family leave complaints annually, the Employment Standards program will need five FTEs:

- One Industrial Relation Agent 2 (IRA2) starting July 1, 2009 and one starting July 1, 2011.
- One Industrial Relations Agent (IRA3) FTE. The Industrial Relations Agent 3 will also help develop policies and rules, consultation with the field staff, training and outreach. Start date: July 1, 2009.
- Two Customer Service Specialist 2 (CSS2) to assist in complaint intake, document handling, and processing. One FTE will be in headquarters. The other FTE will be split among the field offices. One starts in July 2009 and the other in January 2010.

Fraud Prevention and Compliance

The Fraud Prevention and Compliance unit will need to investigate into allegations of false filing for FML benefits and collect debt owed.

Investigations: For the period Fiscal Year 2005 through December Fiscal Year 2007 the program conducted investigations of three percent of all workers' compensation claims. This is an average of 136 investigations per investigator per year. This bill provides for short duration benefits at a maximum of \$250 per week. It is anticipated that the amount of cases referred for investigation would be approximately 0.50 percent of the allowable FLI claims. Using the number of allowable claims in the first year the program estimates a need for one Investigator 2 FTE beginning in July 2009 allowing sufficient time to train the investigator.

Public Affairs Outreach

Two permanent Customer Service Specialist 2 FTEs are needed to answer calls to the agency's main toll-free hotline (1-800-LISTENS). An increase in the number of calls to the hotline is expected from claimants and individuals requesting information regarding Family Leave Insurance. These new staff will increase the need for a supervisor by 0.25 FTEs.

A graphic designer FTE is needed to design and develop outreach and education materials, application forms, and the internet web pages. A communication consultant is needed to manage the major outreach efforts for the program.

Translations cost approximately \$165 for a one-page fact sheet and \$116 for a single-sided letter. Times four languages, that works out to approximately \$660 per page.

Those numbers only represent the two outreach efforts required by the legislation. Translation costs would be considerably higher if it is determined that all future correspondence (letters, application forms, etc.) to claimants and their employers must be provided in the five most common foreign languages used in this state. We assume publication translation costs for the biennium to be about \$50,000.

Also assumed are costs for:

- \$60,000 in printing and postage for brochures and invitation notices to training workshops for all employers (one mailing).
- \$85,000 for the printing and mailing of a resource manual for employers.
- \$150,000 for radio airtime to reach an estimated 60 percent of the state's population.
- \$800 translations for a one-page informational fact sheet (five languages)
- Language Line telephone costs are assumed at \$143,000 per year.

Mailroom

The mail room will need one Office Assistant 3 position to process additional incoming and outgoing mail, beginning July 1, 2009.

Office Space

Office space will need to be leased for the new staff and contract programmers (who require office space on site but are not considered FTEs). For 35 staff plus contract

programmers L&I will need 10,500 square feet of new leased space. Assuming a five year lease @ \$21 per square feet per year the estimated annual lease cost is \$220,500.

FTE Standard Costs

Permanent and temporary FTE costs include salary and benefits, and the standard costs associated with a new FTE. These standard costs include:

- Leased office space.
- Work unit (desk, file cabinet, etc.) and furniture (if needed).
- Telephone and communication expenses.
- Training.
- Travel.
- Leased PC equipment.

We assume new FTEs require new leased office space. Costs are included, prorated on a per FTE basis, to cover tenant improvements necessary to lease more office space. Tenant improvements include:

- One-time expenditures for GA real estate and architectural fees.
- Phone and data wiring.
- Copy room and conference room equipment and furniture.
- Lunch and break room equipment.
- Staff moving costs.
- Security system.
- Other miscellaneous supplies.

Indirect Allocation Included In Cost Estimates

We include agency wide indirect cost estimates. Only our Administrative Services and Information Services programs receive indirect cost allocation.

Our methodology was updated and approved in the 2007-2009 Budget. The annual indirect rates for Insurance Services include:

- 6.3% in Fiscal Year 2008
- 6.3% in Fiscal Year 2009

The annual indirect cost is calculated on:

- Requested FTE salary and benefit costs.
- Standard costs associated with new FTEs.
- IT equipment is not included.

We convert the total indirect amount into salary and benefits for partial or full indirect FTEs. Salary and benefits costs are based on a Financial Analyst 3 (Range 50, Step G).

The amount remaining after the salary and benefits are calculated is allocated in object E to provide goods and services for the indirect FTE(s).

The amount received for the indirect FTE(s) may not be enough to actually hire a new staff person. But, this indirect funding may be used instead to pay current staff for overtime or increasing the use of temporary and seasonal employees.

Depending on the agency's needs, examples of activities provided in Administrative Services and Information Services include:

- Vendor payment and payroll processing.
- Equipment purchase, delivery, inventory, storage and set-up.
- Technical support to employees.
- Desk-top and network support.
- Internal IT systems support.
- Contract and purchasing services.
- Legislative and Public Affairs.
- Library services and public disclosure.
- Personnel and employee services.
- Budget and Accounting.
- Facilities management.

The amount included in this fiscal note for indirect is:

Fund Name, Fund #	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013
New -Family Leave	\$40,118	\$58,983	\$208,721	\$247,926	\$261,119	\$272,622

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

The department will be required to develop and adopt new regulations to administer the program.

Attachment C

10- 12- 07 Family Medical Leave Insurance

FTEs Requested

Family Medical Leave Program – Permanent FTEs

Classification	Description	Hire Date
FML Program Manager	Program Manager	1 beginning Jan 1, 2008
Administrative Regulatory Analyst 2	For rule promulgation	1 beginning Jan 1, 2008
Office Assistants 2	Claims initiation	1 beginning July 1, 2009 1 beginning July 1, 2010
Office Assistant 3	Imaging- Manage claims records, image & index documents received for each claim	1 beginning July 1, 2009 1 beginning July 1, 2010
Office Support Supervisor 2	Supervisor	.25 beginning July 1, 2009
Unemployment Insurance Specialist 1	Claim Managers – Adjudicates FML insurance claims and benefit payment	4 beginning July 1, 2009 1 beginning July 1, 2010
Unemployment Insurance Specialist 2	Claims Managers – Adjudicates FML insurance claims and benefit payments	3 beginning July 1, 2009 1 beginning July 1, 2010
Unemployment Insurance Specialist 3	Claims Managers – Adjudicates FML insurance claims and benefit payments	2 beginning July 1, 2009 1 beginning July 1, 2010 1 beginning July 1, 2012
Office Assistant 3	Support for Claims Management Staff	1 beginning July 1, 2009 1 beginning July 1, 2010
Unemployment Insurance Specialist 6	Supervises claim managers and unit support staff	1 beginning Jan 1, 2008
Actuarial Analyst 2	Benefit and premium analysis and financial reports	1 beginning July 1, 2009
Workers Comp Adjudicator 5	Supervise Appeals and Training Staff	1 beginning July 1, 2009
Workers Comp Adjudicator 4	Trainer – Develop curriculum, write lesson plan, deliver training to all FML personnel	1 beginning Jan 1, 2008
Workers Comp Adjudicator 4	Appeals	1 beginning July 1, 2009
Office Assistant 3	Office support for appeals	1 beginning July 1, 2009

Classification	Description	Hire Date
EMPLOYMENT STANDARDS: Industrial Relations Technical Specialist 2	Investigate complaints of discrimination and/or denial of benefits by employers	1 beginning July 1, 2009 1 beginning July 1, 2011
Industrial Relations Technical Specialist 3	Develop policies and rules, consultation with field staff, training and outreach. Will also investigate complaints part time	1 beginning July 1, 2009
Customer Service Specialist 2	Process complaint intake	1 beginning July 1, 2009 1 beginning Jan 1, 2010
FRAUD: Investigator 2	Senior Investigator- Conduct investigations of false filing of FML, gather evidence, obtain statements/documents, testify	1 beginning July 1, 2009
INFORMATION SVCS Permanent: Information Technology Specialist 4	Claims system maintenance	1 beginning October 1, 2009
Information Technology Specialist 3	Claims system maintenance	2 beginning October 1, 2009
Information Technology Specialist 4	For Data Warehouse maintenance	1 beginning October 1, 2009
Information Technology Specialist 4	Integrated Document Management system maintenance	1 beginning October 1, 2009
ADMIN SERVICES: Office Assistant 3 - Mailroom	Process additional incoming and outgoing mail	1 beginning July 1 2009.
PUBLIC AFFAIRS: Customer Service Specialist 2	Office of Information Assistance – to staff the 1-800 hotline	2 beginning April 1, 2008
Office Support Supervisor 2	Supervisor Staff	0.25 beginning April 1, 2008
Graphic Designer 2	Outreach Efforts. Will reduce to .50 FTE after the first biennium	1 beginning April 1, 2008 through June 30, 2010 0.50 thereafter
Communications Consultant 3	Management the major outreach efforts for the FML program.	1 beginning April 1 2008

Family Medical Program – IT/ Claims Project FTES

Classification	Description	Hire Date
FMLA Project Director	FMLA Project Director - IS	1 beginning Jan 1, 2008 ending September 30, 2009
Project Manager	Business Project Manager - IS	1 beginning Jan 1, 2008 ending September 30, 2009
Project Manager	Technical Project Manager - IS	1 beginning Jan 1, 2008 ending September 30, 2009
Project Lead	Business area lead for claims – Industrial Insurance	1 beginning Jan 1, 2008 ending September 30, 2009
Project Lead	Business area lead for claims initiation/imaging – Industrial Insurance	1 beginning Jan 1, 2008 ending September 30, 2009
Secretary Administration	Project staff support	1 beginning Jan 1, 2008 ending September 30, 2009
Comparable to UI Spec 2	Business area representative for claims	1 beginning Jan 1, 2008 ending September 30, 2009
Comparable to UI Spec 3	Business area representative for claims	1 beginning Jan 1, 2008 ending September 30, 2009
Office Assistant 3	Business area representative for Imaging	1 beginning Jan 1, 2008 ending September 30, 2009
Office Assistant 2	Business area representative for claims initiation	1 beginning Jan 1, 2008 ending September 30, 2009
Info Tech App Spec 4	Integrated document management deployment	1 beginning Jan 1, 2008 ending September 30, 2009
Info Tech Systems Spec 4	Integrated document management deployment-systems administrator	1 beginning Jan 1, 2008 ending September 30, 2009
Info Tech Spec 4	Data warehouse development	1 beginning Jan 1, 2008 ending September 30, 2009
Info Tech Specialist 5	Integrated document management database administrator	1 beginning Jan 1, 2008 ending September 30, 2009

Revisions to Family Leave Insurance Fiscal Note
October 25, 2007

Estimated Claim Volumes:

- Estimated accepted claim volumes revised, as previous estimate excluded some of the projected claims in the sixth year.

Estimated Benefit Costs:

- Table D showing the Projected Claim Counts and Costs was revised to correct the benefit costs. Estimated benefit costs are approximately \$2 million less than reported in the October 16th fiscal note.

FTEs:

- No FTEs were added or eliminated.
- The total number of FTEs (48.2) reported on October 16th was corrected.
- Corrected FTE standard equipment costs by fiscal year.

Clarifying Language:

- Added clarifying language to explain that this fiscal note was prepared at the request of the Joint Legislative Task Force on Family Leave Insurance.
- Added statement that the interest charged on the load from Supplemental Pension Account cannot be determined at this time.
- Minor clarifying language added to the bill analysis.
- Corrected assumptions and estimated number of complaints in the Employment Standards section.
- Corrected information in the Public Affairs Outreach section to clarify the FTE needs.

