

Multiple Agency Fiscal Note Summary

Bill Number: 6440 SB	Title: Workers' comp medical exam
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Estimated Cash Receipts

NONE

Estimated Operating Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Board of Industrial Insurance Appeals	Fiscal note not available								
Department of Labor and Industries	6.4	0	1,885,000	11.5	0	2,099,000	11.2	0	2,022,000
Total \$	6.4	0	1,885,000	11.5	0	2,099,000	11.2	0	2,022,000

Estimated Capital Budget Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Board of Industrial Insurance Appeals	Fiscal note not available								
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

NONE

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Individual State Agency Fiscal Note

Bill Number: 6440 SB	Title: Workers' comp medical exam	Agency: 235-Department of Labor and Industries
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.0	12.8	6.4	11.5	11.2
Account					
Accident Account-State 608-1	0	940,000	940,000	1,050,000	1,012,000
Medical Aid Account-State 609-1	0	945,000	945,000	1,049,000	1,010,000
Total \$	0	1,885,000	1,885,000	2,099,000	2,022,000

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Susan Jones	Phone: 360-786-7404	Date: 01/19/2020
Agency Preparation: Allison Kaech	Phone: 360-902-4530	Date: 01/27/2020
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 01/27/2020
OFM Review: Robyn Williams	Phone: (360) 902-0575	Date: 02/04/2020

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 attached.

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 attached.

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.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
608-1	Accident Account	State	0	940,000	940,000	1,050,000	1,012,000
609-1	Medical Aid Account	State	0	945,000	945,000	1,049,000	1,010,000
Total \$			0	1,885,000	1,885,000	2,099,000	2,022,000

III. B - Expenditures by Object Or Purpose

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years		12.8	6.4	11.5	11.2
A-Salaries and Wages		718,000	718,000	1,195,000	1,144,000
B-Employee Benefits		301,000	301,000	521,000	504,000
C-Professional Service Contracts		431,000	431,000		
E-Goods and Other Services		286,000	286,000	367,000	358,000
G-Travel		9,000	9,000	16,000	16,000
J-Capital Outlays		140,000	140,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	1,885,000	1,885,000	2,099,000	2,022,000

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 2020	FY 2021	2019-21	2021-23	2023-25
Communications Consultant 5	81,936		0.5	0.3		
Fiscal Analyst 5	67,248		0.8	0.4	0.7	0.7
IT Business Analyst Journey	96,890		0.5	0.3		
Office Assistant 3	42,420		0.5	0.3	0.5	0.5
Program Coordinator	46,647		7.0	3.5	7.0	7.0
Program Support Supervisor 1	50,256		1.0	0.5	1.0	1.0
WMS 2 Project Manager	98,942		0.5	0.3	0.3	
Workers' Compensation Adjudicator 3	65,928		2.0	1.0	2.0	2.0
Total FTEs			12.8	6.4	11.5	11.2

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

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

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 attached

Part II: Explanation

This bill relates to industrial insurance medical examinations; amending RCW 51.32.110 and 51.36.070; and adding a new section to chapter 51.08 RCW.

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

This bill makes numerous changes related to the Independent Medical Examination (IME) process at Labor & Industries (L&I).

Section 3(1)(e) requires an exam to be at a place reasonably convenient to the worker, defined as a radius where residents would normally travel to seek medical care for the same specialty as the examiner. This change will increase workload for IME scheduling staff.

Section 3(1)(g) shifts responsibility for scheduling self-insured claim IMEs to L&I and appears to require adjudicative review.

This bill limits how and when L&I and Self-Insured employers can request IMEs. It allows workers the right to have an observer attend the examination, the ability to record exams and requires the worker to provide a copy of the recording, upon request. Examiners are required to retain copies of specified records and adds criteria for examiner availability for testimony. Other changes include expansion of the list of providers who can perform an IME and restricts the ability for no-show fees to be charged to a worker.

II. B – Cash Receipt Impact

Non-appropriated State Fund Premiums

As an insurance entity, (L&I) premium rates are intended to match premiums to claims cost projections. Therefore, for this fiscal analysis it is assumed that any incremental costs or savings will equal the incremental revenue collected.

Non-appropriated Self-Insured Employers

If an employer chooses to be self-insured, they are responsible to pay for overall claim costs and a portion of administrative costs of L&I's Self-Insurance Program and other costs of related support functions. The administrative assessment is an amount per dollar of claim benefit costs. If administrative costs are increased due to how IMEs are scheduled, self-insured employers would be assessed by L&I for their appropriate portion of the increase based on their claim costs. Incremental costs or savings will equal the incremental revenue collected from assessments.

II. C – Expenditures

Non-appropriated – State Fund Benefits Costs

There is non-appropriated impact only to the Accident Account, fund 608, and Medical Aid Account, fund 609. (Non-appropriated costs are not included in the Fiscal Note Summary.) The following assumptions were used to calculate the estimates:

This bill would increase disability and claim costs, including additional pensions, for L&I due to additional delays and limitations created by the new processes this bill requires. A few examples would be:

- Before ordering an exam, L&I is required to notify the attending physician (AP) in writing of the worker's right to a consultation, potentially causing a delay of up to 14 days and, in some cases, longer due to the time it takes for the AP to schedule the consultation, have it completed, and a report submitted with the consultation results.
- There will be fewer IME physicians available to do exams as some may no longer participate due to the requirements to travel and be audio or videotaped during the exam.
- The reduced ability to deduct no show fees from injured worker's time-loss will reduce incentives to stop late cancellations and no show behavior.
- Limitations on the number of IMEs per claim and the inability to request IMEs for stalled treatment plans or complex medical issues except when they meet the definition of a "new" issue.

L&I cannot determine the non-appropriated impact as it is unknown how long the delays would be and/or how often they would occur and the resulting inability to obtain medical evidence for claim resolution.

Appropriated -Operating Costs

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

Staffing

The expenditure calculations in this fiscal note includes the compensation and benefit changes approved in the 19-21 Biennial Budget.

- **Seven (7.0) Program Coordinators**, permanent, beginning July 1, 2020. Duties include scheduling IMEs for self-insured employers, answer calls, clarify information, and ensure appointments meet legislative guidelines.
 - For the period April 1, 2018 through March 31, 2019, there were 22,709 IMEs scheduled for State Fund claims. L&I does not have data for the number of IMEs scheduled for self-insured claims.
 - There are currently seven FTEs doing this work. An estimated 33% of the IMEs requiring manual intervention, or 7,494 per year. Therefore, each FTE processes approximately 1,070 of those requiring manual work ($7,494 / 7 \text{ FTEs} = 1,070$ per FTE per year).
 - Self-insurance makes up 37% of the total compensable claims
 - L&I anticipates a 37% increase, or 8,402 more IMEs, with the addition of scheduling IMEs for self-insured employers ($22,709 \text{ IMEs per year} \times 37\% = 8,402 \text{ IMEs per year}$).
 - This makes the total number of IMEs per year 31,111 ($22,709 \text{ IMEs} + 8,402 \text{ IMEs}$).
 - Over 40% of current State Fund appointments are scheduled over 11 miles away from the worker's residence. There are a limited number of specialties available in certain geographic areas. These factors will increase the number of IMEs

routed for manual intervention because the examiner will be required to travel to the worker in these circumstances, under the provisions of the bill.

- L&I anticipates schedulers will manually handle at least 50% of the scheduling based on the impact of this legislation, doubling the number of cases (31,111 IMEs X 50% = 15,556 IMEs manually scheduled).
 - Therefore, 7.0 additional FTEs are needed (15,556 IMEs referrals / 1,070 referrals per FTE = 14.0 FTEs – 7.0 current FTEs = 7.0 new FTEs).
- **One (1.0) Program Support Supervisor**, permanent, beginning July 1, 2020, who would supervise the second team of program coordinators tasked with scheduling IMEs. Supervising seven individuals is considered industry standard.
 - **Two (2.0) Workers' Compensation Adjudicator (WCA) 3s**, permanent, beginning July 1, 2020. Duties include communicating the notices to providers and reviewing the scheduling requests from employers for compliance with the requirements under the proposed legislation.
 - This review will be a new process, so there isn't current practice to inform us of the number of FTEs needed. It is assumed each WCA3 will notify the AP of the IME request, and make an adjudicative decision on whether the requested IME is to be scheduled or not, along with reviewing and issues determinations on any disputes. Each WCA3 will handle 50% or 4,201 requests per year
 - **0.5 FTE Office Assistant 3**, permanent, beginning July 1, 2020. Duties include intake and tracking of scheduling requests and assignment to adjudicators.
 - Self-insurance estimates 8,402 IMEs will need intake, assignment, and tracking.
 - **0.5 FTE WMS 2 Business Project Manager**, project, beginning July 1, 2020 and ending June 30, 2022.
 - Managing the implementation, assisting with changes in processes, procedures, tasks, rulemaking, creation of letters for MAIL system, and assisting with IT service requests for the IME tracking system.

- **0.5 FTE Communications Consultant 5**, project, beginning July 1, 2020 and ending June 30, 2021.
 - Communicate changes with both internal and external customers and update affected brochures and pamphlets.

Information Technology New Applications/Systems

This bill requires changes to the current IME tracking systems to allow self-insured employers to request scheduling of exams through L&I instead of scheduling themselves. There will be several new restrictions on when, where and how to schedule exams for the injured worker that will be included in these changes. Results of the exams will need to be reported as well as some summary reports created. Changes will be needed to the Independent Medical Examination Scheduling System (IME), Claims Account Center (CAC), Claims Mail, Self-Insurance Core Assignment Manager (SICAM) and the Self Insurance Risk Analysis System (SIRAS). The following information technology resources will be needed:

- \$430,660 is needed for 3,210 contractor hours to develop, test, and implement changes to these applications/IT systems.
- **0.5 FTE IT Business Analyst - Journey**, project, beginning July 1, 2020 and ending June 30, 2021.
 - Gathering business and information technology requirements, business process redesign, monitoring policy and WAC changes, and coordinating with communications.

The expenditure calculations in this fiscal note includes 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.

Printing & Mailing

\$4,602 is needed in fiscal year 2021 to update and print the “Your Independent Medical Exam” for state fund and self-insured injured workers (English and Spanish).

Rulemaking

\$5,000 is needed for two rule making hearings to occur in the spring of 2021. The average cost of one rule making hearing is \$2,500. (2 hearings x \$2,500 each = \$5,000)

Indirect Costs

The amount included in this fiscal note for indirect is:

Fund Name		FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
608	Accident	40,000	37,000	35,000	35,000	35,000	35,000
609	Medical Aid	40,000	37,000	35,000	35,000	35,000	35,000
	Total:	\$80,000	\$74,000	\$70,000	\$70,000	\$70,000	\$70,000

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 56, Step G).

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

This legislation would result in rule changes to:

- WAC 296-23-367-States no recording of any kind allowed.
- WAC 296-23-362-Who can observe an exam.
- WAC 296-23-322-What boards do we recognize.
- WAC 296-23-317-Limits who can conduct exams.
- WAC 296-20-02005-Record retention for providers of five years.
- WAC 296-20-1103-Travel Reimbursement.