

JUDICIAL IMPACT FISCAL NOTE

Bill Number: 5527 SB	Title: Employee Status Enforcement	Agency: 055 – Administrative Office of the Courts (AOC)
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Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

	FY 2018	FY 2019	2017-19	2019-21	2021-23
Total:					

Estimated Expenditures from:

STATE	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE – Staff Years					
Account					
General Fund – State (001-1)					
State Subtotal					
COUNTY					
County FTE Staff Years					
Account					
Local - Counties					
Counties Subtotal					
CITY					
City FTE Staff Years					
Account					
Local – Cities					
Cities Subtotal					
Local Subtotal					
Total Estimated Expenditures:					

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

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.

Legislative Contact:	Phone:	Date:
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Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date:
OFM Review:	Phone:	Date:

Part II: Narrative Explanation

This bill would create the employee fair classification act, which would prohibit misclassification of employees as independent contractors. Section 7 would provide that if it is determined that a person (including employers) engaged in prohibited acts detailed in Section 5, a court must order damages that are the greater of three times the wages and benefits unlawfully denied or statutory damages of \$1000 to \$10,000 per employee or \$10,000 to \$25,000 per employee if a pattern or practice is shown plus attorney fees and costs. Individual and class actions would be authorized with a three-year statute of limitations for both administrative and court actions.

Part II.A – Brief Description of what the Measure does that has fiscal impact on the Courts

Section 7

(1) An individual aggrieved by a violation of Section 5 of this act may bring suit on behalf of himself or herself or on behalf of any other individual who is similarly situated.

(2) If a court determines that a person or persons, including employers, violated section 5 of this act, it:

(a) Shall order persons, including employers, to jointly and severally pay the greater of:

(i) Three times the amount of any wages including overtime, salary, and employment benefits unlawfully denied or withheld except benefits under Titles 50 and 51 RCW; or

(ii) Statutory damages for each employee aggrieved by the violation. Statutory damages must not be less than one thousand dollars and not more than ten thousand dollars per employee, unless the person engaged in a pattern or practice of violations, in which case the statutory damages must be not less than ten thousand dollars and not more than twenty-five thousand dollars per employee;

(b) May order persons, including employers, to jointly and severally pay the employee reimbursement for any taxes and the value of any benefits paid by the employee; and

(c) Shall order persons, including employers, to jointly and severally pay attorneys' fees and costs.

(3) If a court determines that an employer violated section 5 of this act, it may order the employer to pay any taxes owed and award injunctive or other equitable relief, including reinstatement and reclassification of the employee with terms and conditions at least as favorable as those that applied when the employee was misclassified, including rate of compensation, value of any benefits, and hours of work. The court may award front pay in lieu of reinstatement.

(4) A civil action under this section must be brought no later than three years after the violation occurred. For the purposes of this section, a violation occurs from the initial date of misclassification and for as long as the employee continues to be misclassified. The three-year period is tolled during any period of time that an employer, any of its agents, or any person acting on behalf of the employer deters an individual from bringing an action under this section.

II.B - Cash Receipt Impact

None.

II.C – Expenditures

There is no data available to estimate the number of suits that would be filed under this act. It is assumed that court impact would be minimal.