

# JUDICIAL IMPACT FISCAL NOTE

<b>Bill Number:</b> 1076 SHB	<b>Title:</b> Workplace Violations / qui tam	<b>Agency:</b> 055 – Administrative Office of the Courts (AOC)
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## Part I: Estimates

☐ **No Fiscal Impact**

### Estimated Cash Receipts to:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
<b>Total:</b>					

### Estimated Expenditures from:

STATE	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE – Staff Years					
<b>Account</b>					
General Fund – State (001-1)					
State Subtotal					
<b>COUNTY</b>					
County FTE Staff Years					
<b>Account</b>					
Local - Counties					
Counties Subtotal					
<b>CITY</b>					
City FTE Staff Years					
<b>Account</b>					
Local – Cities					
Cities Subtotal					
Local Subtotal					
<b>Total Estimated Expenditures:</b>					

*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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OFM Review:	Phone:	Date:

## Part II: Narrative Explanation

This bill will add a new chapter to the “Worker Protection Act, RCW 49, allowing for individuals to bring actions on behalf of the state for violations of a specified workplace protection laws.

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

This bill differs from HB 1076:

- Would specify that a qui tam action may be brought to enforce the rules of each specified law as well as the underlying law;
- Would specify that both administrative enforcement and civil action authority may be available to an agency or relator;
- Would provide timeframes for the relator to provide notice to the agency, commence a qui tam action, and add any other violations to the action;
- Would specify that the statute of limitations for a qui tam claim is tolled from the earlier of the date the notice is filed with the agency or the agency begins an applicable investigation;
- Would specify that agency resolution of the merits of a violation, not a particular type of determination, precludes a qui tam action;
- Would specify that provisions related to agency resolution and the availability of a qui tam action are based on each alleged violation, not general actions;
- Would specify that a court must offset restitution or damages paid to an employee by that paid in another action;
- Would remove the law relating to safety for underground workers as a law that may be enforced under a qui tam action;
- Would change the timeframe for expedited agency investigations of qui tam retaliation from 30 to 90 days; and
- Would remove the new accounts for receipts of penalties and instead directs that penalties be deposited in accordance with the laws under which they are assessed.

Section 3- Would add a new chapter to the “Worker Protection Act, RCW 49, allowing for individuals to bring actions on behalf of the state for violations of a specified workplace protection laws. The qui tam action would allow the prevailing relator to be entitled to reasonable attorneys’ fees and costs. No qui tam action may brought if the agency, regarding the same facts, has already issued a notice of assessment, determination of compliance or order, or otherwise resolved the complaint.

Section 4 – Would allow a qui tam action for the following laws:

- RCW 49.46, known as the Minimum Wage Act,
- RCW 49.48, relating to the payment of wages,
- RCW 49.52, relating to wage rebates,
- RCW 49.28.130 through 49.28.150, relating to health care facility employee overtime,
- RCW 39.12, relating to prevailing wage,
- RCW 49.40, relating to seasonal labor,
- RCW 49.17, the Washington Industrial Safety and Health act of 1973,
- RCW 49.19, relating to safety in health care settings,
- RCW 49.22, relating to safety in late night retail establishments,
- RCW 49.24, relating to safety for underground workers,
- RCW 49.26, relating to asbestos safety,
- RCW 49.77, known as military family leave,
- RCW 49.58, known as Gender Equal Pay and Advancement Opportunities,

- RCW 49.60, known as the Washington Law Against Discrimination,
- RCW 19.30, relating to farm labor contractors,
- RCW 49.30, relating to agricultural labor,
- RCW 43.70.075, relating to health care employee whistleblower retaliation protection,
- RCW 49.12, known as the Industrial Welfare Act

Section 5 – Would require the relator to file with the agency, via online submission. The bill would establish a seventy-five dollar filing fee be made to the agency and it would be up to the agency to establish rules on when the filing fee could be waived. The agency would need to notify the relator and make a determination within sixty days on whether they were going to investigate the alleged violation and the agency may attempt to remedy the violation through settlement. The agency would also have the ability to deny representation by the chosen attorney if there is justification based on the attorney's past conduct.

Section 6 – Would allow the agency to intervene in a qui tam action as a right, if it is within thirty days of the filing or for good cause as determined after the expiration of the thirty-day period. If the agency does not intervene the relator would be able to move forward with litigation. Any proposed settlement to the court must be submitted to the agency and Attorney General. The agency and the Attorney General both have the ability to intervene at this point.

Section 7- Would provide for the distribution of civil penalty amounts recovered in a qui tam action.

Section 9 – Would allow for a employees that have been retaliated against by their employer for filing a complaint to bring a second action in court for compensatory damages or equitable relief, which could include lost wages, benefits, reinstatement, and reasonable attorney's costs.

## **II.B - Cash Receipt Impact**

Indeterminate. There is no data available to estimate the number of new civil filings that would result from this bill.

## **II.C – Expenditures**

Indeterminate. There is no data available to estimate the number of new petitions in superior courts resulting from this bill.

Judicial education would be required, and new coding added. These impacts would be managed within existing resources.