

# HOUSE BILL REPORT

## HB 1136

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**As Reported by House Committee On:**  
Labor & Workplace Standards

**Title:** An act relating to requiring employers to reimburse employees for necessary expenditures and losses.

**Brief Description:** Requiring employers to reimburse employees for necessary expenditures and losses.

**Sponsors:** Representatives Reeves, Reed, Berry, Walen, Ramel and Pollet.

**Brief History:**

**Committee Activity:**

Labor & Workplace Standards: 1/18/23, 2/3/23 [DPS].

**Brief Summary of Substitute Bill**

- Requires employers to reimburse employees for all necessary expenditures and losses incurred in direct consequence of their duties.

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### HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Berry, Chair; Fosse, Vice Chair; Bronoske, Doglio, Ormsby and Ortiz-Self.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Robertson, Ranking Minority Member; Schmidt, Assistant Ranking Minority Member; Connors.

**Staff:** Kelly Leonard (786-7147).

**Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

*Reimbursement of Expenditures.* State law does not directly address reimbursement of general, work-related expenditures or costs incurred by employees, except for certain work-related clothing and uniforms. Uniforms and other items benefiting the employer are generally considered business expenses under federal law. The employer may require the employee to pay for such items, but not if the cost reduces the employee's wage below the minimum wage or cuts into overtime compensation.

*Wage Payment Act.* A person owed wages may file a wage complaint with the Department of Labor and Industries (L&I) under the Wage Payment Act, and L&I is required to investigate the complaint. L&I must issue either a citation and notice of assessment or a determination of compliance. When L&I issues a citation and notice of assessment, it may order the employer to pay the employee wages plus interest and, if the violation was willful, may order the employer to pay a civil penalty.

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### **Summary of Substitute Bill:**

An employer must reimburse an employee for all necessary expenditures and losses incurred in direct consequence of the employee's duties. Reimbursements must be made within 30 days of an employer's actual or constructive notice of the expenditure or loss. The failure of an employer to reimburse an employee constitutes a loss of wages equal to the amount of the reimbursement owed to the employee.

For the purpose of enforcement, the reimbursement requirement constitutes a wage payment requirement under the Wage Payment Act. L&I may adopt rules to implement and enforce the reimbursement requirement.

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### **Substitute Bill Compared to Original Bill:**

The substitute bill makes the following changes:

- removes the express cause of action established in the underlying bill;
- adds language providing that the failure of an employer to reimburse an employee for an expenditure or loss constitutes a loss of wages equal to the amount of the reimbursement owed to the employee;
- allows L&I to adopt rules to implement and enforce the reimbursement requirement;
- specifies that the reimbursement requirement constitutes a wage payment requirement under the Wage Payment Act; and
- delays the effective date of the bill until July 1, 2024.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 3, 2023.

**Effective Date of Substitute Bill:** The bill takes effect on July 1, 2024.

**Staff Summary of Public Testimony:**

(In support) The future of work is evolving. People are leaving centralized workplaces and being asked to do things differently. Many people work remotely, and in doing so, are taking on more responsibilities. Workers need to be reimbursed for expenses that benefit employers. Most employers are already doing this, but not all of them. Yet there is no law addressing this, exposing employees to potential abuses by bad actors. This bill fills this critical gap by requiring employers to reimburse their employees for necessary expenditures. At least 13 other states and the City of Seattle have laws similar to the one proposed in the bill.

There are numerous examples of ways in which employees are asked to bear the expenses of their employers without being reimbursed for them: delivery drivers paying for vehicle repairs, dry wall workers buying utility blades and other tools, bank employees buying desks and faster internet, and restaurant workers buying uniforms. In one instance, the operator of a major greenhouse in Washington asked its employees to pay for major expenses to keep the business afloat. The employer kept promising that employees would be reimbursed, but then never followed through. Those employees are now saddled with debts and financial troubles, and they do not have legal recourse to seek payment from the employer. There is an inherent power imbalance in these situations. Employees have little to no bargaining power, and they must capitulate because they have rent to pay. Employees simply accept the terms upon which employers employ them, regardless of potential abuses. This is seen time and time again.

There is a commonsense path forward. The bill is the same as what currently exists in other states, and there is already a lot of guidance from those states on how to properly implement the requirements. If the bill is amended to provide for administrative rule-making and other remedies, it should still allow for legal recourse.

Proponents of the bill are interested in finding common ground and amending the bill to address concerns. Filing a lawsuit should not be the remedy in every instance. These should be treated as wage claims and dealt with through the existing structure administered by L&I.

(Opposed) Businesses should not pass expenses onto employees. This is not disputed, and many of the stories described by proponents highlight appalling abuses. However, this bill has significant problems as currently written. It is extremely vague, and key terms are undefined. There are no parameters or sidebars for either the employer or employee.

Who gets to decide what is a "necessary" expenditure? Who owns the purchased items?

Are there limits on what can be purchased? Do expenditures need to be agreed upon in writing? The bill leaves these questions to be answered by the courts. Businesses will have no guidance until after they are sued. One cannot just rely on commonsense interpretations because lawyers will sue businesses over anything. For example, does a fish need a bicycle? Commonsense says no, but a lawyer would sue on behalf of a fish, claiming that the fish needs a bicycle and the employer should also buy him legs.

Rather than locking businesses into litigation, businesses should be given proper guidance as to what is being required of them. They want to do the right thing. The bill should be rewritten to provide more clarity, and give L&I oversight of the process.

The bill intrudes upon the private contractual relationships between businesses and their employees. The Legislature has no business interfering with these private relationships.

(Other) The bill should be amended to provide more clarity to employers and employees. Stakeholders are working together to find common ground.

**Persons Testifying:** (In support) Representative Kristine Reeves, prime sponsor; Patrick Connor, National Federation of Independent Businesses; Hardeep S. Rekhi, Washington Employment Lawyers Association; Adrian Ortix; Mathieu Begni; Toby Marshall; and Daniel Johnson.

(Opposed) James King, Independent Business Association; Val Mullen; Heidi Johnson-Sandall and Jeannie Magdua, Conservative Ladies of Washington; and Suzanne Rohner.

(Other) Samantha Louderback, Washington Hospitality Association.

**Persons Signed In To Testify But Not Testifying:** None.