
**Labor & Workplace Standards
Committee**

HB 1128

Brief Description: Establishing a child care workforce standards board.

Sponsors: Representatives Fosse, Stonier, Berry, Bronoske, Davis, Taylor, Wylie, Nance, Pollet, Ormsby, Scott, Mena, Doglio, Alvarado, Berg, Peterson, Goodman, Reeves, Reed, Parshley, Stearns, Simmons, Cortes, Ramel, Ryu, Timmons, Hackney, Kloba, Callan, Farivar, Ortiz-Self, Paul, Morgan, Shavers, Macri, Obras, Rule, Fey, Lekanoff, Bergquist, Salahuddin, Bernbaum and Hill.

Brief Summary of Bill

- Establishes the Washington State Childcare Workforce Standards Board (Board).
- Requires the Board to adopt minimum standards for compensation and other employment conditions of child care workers.
- Makes it unlawful for a child care employer to employ a child care worker for lower wages than those required by the Board or for violating other employment standards adopted by the Board.

Hearing Date: 1/15/25

Staff: Kelly Leonard (786-7147).

Background:

Minimum Wage and Other Working Conditions.

The Minimum Wage Act (MWA) establishes a statewide minimum hourly wage, requires

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.

overtime pay for certain workers, provides for paid sick leave, and provides for other employment standards. The current statewide hourly minimum wage is \$16.66, which is adjusted annually for inflation by the Department of Labor and Industries (L&I). Under the MWA, L&I may inspect places of business, investigate, and gather data regarding wages, hours, and other conditions and practices.

L&I administers other employment standards, including those affecting industrial welfare. L&I rules require employees to be allowed paid rest periods of at least 10 minutes for every four hours worked, and at least 30 minutes for a meal period for every five hours worked. An employee may waive the right to a meal break, but may not waive the rest period requirements. Employees must also be provided reasonable access to bathroom facilities and employers may not restrict bathroom breaks to time schedules or impose unreasonable time use restrictions.

Safety and Health.

Under the Washington Industrial Safety and Health Act (WISHA), an employer must provide a workplace free from recognized hazards. L&I administers WISHA and adopts both general and industry-specific workplace safety and health standards. If L&I finds that an employer has committed a violation, it issues a citation and notice of assessment, and, depending on the violation, may assess civil penalties. Civil penalties may be adjusted based on the employer's inspection history, the size of the workforce, and other factors.

Child Care Licensing and Regulations.

The Department of Children, Youth, and Families (DCYF) regulates child care licensing. In general, it is unlawful for any person or business to provide child care services for a child outside the child's own home unless licensed by the DCYF. The DCYF has also adopted core competencies for child care providers that describe the standards of knowledge and skills required to provide quality care and education to children and their families.

All child care providers subject to DCYF licensing must provide the DCYF, the Chief of the Washington State Patrol, and the Director of Fire Protection, or their designees, the right of entrance and the privilege of access to and inspection of records for determining compliance with legal requirements.

Summary of Bill:

"Child care worker" means any worker providing child care services, excluding administrative staff. It specifically includes any family child care provider as defined in state law. "Child care employer" means any employer of child care workers.

Washington State Childcare Workforce Standards Board.

The Washington State Childcare Workforce Standards Board (Board) is established. The Board

is composed of members appointed by the Governor, as follows:

- three members who represent child care workers;
- three members who represent child care employers or employer organizations, with at least one representing child care family home providers;
- one representative of a professional development or training program for child care workers;
- one representative of an organization representing parents;
- the Secretary of the Department of Children, Youth, and Families (DCYF); and
- the Director of the Department of Labor and Industries (L&I).

The Governor must make initial appointments no later than September 1, 2025. The initial terms for Board members are staggered in length and determined by lot. Otherwise, Board members must serve four-year terms. L&I must provide administrative support staff to the Board, and may employ personnel to carry out its duties. L&I may adopt new rules to implement or enforce the bill.

Minimum Child Care Employment Standards.

The Board must adopt rules establishing statewide child care employment standards. The Board may not adopt standards that are less protective of or beneficial to child care workers as any other applicable statute or rule or any standard previously established by the Board, unless an exception applies.

Wages and Working Conditions. The Board must, in consultation with L&I, adopt statewide standards for compensation and working conditions for child care workers.

The Board must investigate market conditions and the existing wages, benefits, and working conditions of child care workers for specific geographic areas of the state and specific child care occupations. Based on this information, the Board must seek to adopt minimum child care employment standards that meet or exceed existing industry conditions for a majority of child care workers in the relevant geographic area and child care occupation. The Board must consider the following when developing standards:

- wage rate and benefit data for child care workers in the relevant geographic area and child care occupations;
- statements showing wage rates and benefits paid to child care workers in the relevant geographic area and child care occupations;
- signed collective bargaining agreements applicable to child care workers in the relevant geographic area and child care occupations;
- testimony and information from current and former child care workers, worker organizations, child care employers, parents of children currently in child care, and child care organizations;
- local minimum employment standards;
- information submitted by or obtained from state and local government entities, including registries or data regarding employee training, recruitment, and retention;

- information from a federally approved rate-setting tool for child care funding; and
- any other information pertinent to establishing minimum child care employment standards.

Initial standards for wages must be adopted no later than August 1, 2026. Initial employment standards must be effective January 1, 2027. If the child care employment standards result in an increase in costs that exceed any applicable federal payments, the standards are not effective until an appropriation sufficient to cover the rate increase is obtained. If the established child care employment standards result in an increase in costs for services in some circumstances, the standards are not effective until the Legislature appropriates funding sufficient to cover the increase in costs.

The Board must review and make any necessary modifications to rules at least once every four years.

Safety and Health. To the extent that any minimum standards pertain to restrictions under the Washington Industrial Safety and Health Act, the Board must not adopt rules establishing the standards but must instead recommend the occupational health and safety standards to L&I. L&I must initiate rulemaking on child care health and safety standards as recommended by the Board, unless it determines that the recommended standard is outside its statutory authority, is already covered under existing standards, presents enforceability challenges, is infeasible to implement, or is otherwise unlawful and issues a written explanation of this determination.

Conflicts with Other Rules. In the event of a conflict between a rule adopted by the Board and a rule adopted by another state agency, the rule adopted by the Board applies to child care workers and child care employers as a matter of state law. However, if the rule adopted by the other state agency is adopted after the Board's standard and is more protective or beneficial than the Board's standard, then the rule adopted by the other state agency applies to child care workers and child care employers.

If the Secretary of the DCYF determines that a rule adopted by the Board or recommended by the Board conflicts with requirements in federal regulations for child care certification or with state statutes or rules governing licensure of child care employers, the federal regulations or state child care licensure statutes or rules take precedence, and the conflicting Board rule does not apply to child care workers or child care employers. The Secretary of the DCYF is required to provide a written explanation of the rule or recommendation and how it conflicts with the federal regulations.

Training.

A child care employer must ensure its child care workers complete a one-hour training provided by a certified worker organization at least once every two years. The training must include specified components, including information on the minimum standards for compensation and working conditions, antiretaliation protections, and how to report violations of the standards for the bill, among others.

The Board must establish requirements for the curriculum for the child care worker training, which must include certain elements identified in the bill. The Board must certify worker organizations qualified to provide training to childcare workers. The Board must establish criteria for certification, which must ensure that a certified worker organization is able to provide effective and interactive training and written materials in the four languages most commonly spoken by child care workers in the state.

Employer Notices.

Child care employers must provide notices informing child care workers regarding the rights and obligations under the applicable minimum child care employment standards and local minimum standards. Certain requirements are included for the transmission and posting of the notice.

The Board must adopt rules specifying the minimum content and posting requirements for the notices. The Board must make available to child care employers a template or sample notice that satisfies the requirements.

Anti-Retaliation and Other Protections.

A child care employer may not discharge, discipline, penalize, interfere with, threaten, restrain, coerce, or otherwise retaliate or discriminate against a child care worker because the person has exercised or attempted to exercise rights protected under the bill, including but not limited to:

- exercising any right afforded to the child care worker under the bill;
- participating in any process or proceeding including, but not limited to, Board hearings, investigations, or other related proceedings;
- communicating with other child care workers or participating in activities with a worker organization regarding matters covered under the bill; or
- attending or participating in the training required by the bill.

It is unlawful for an employer to:

- inform another employer that a child care worker or former child care worker has engaged in activities protected under the bill; or
- report or threaten to report the actual or suspected citizenship or immigration status of a child care worker, former child care worker, or family member of a child care worker to a federal, state, or local agency for exercising or attempting to exercise any right protected under the bill.

If a child care employer takes adverse action against an employee or a former employee within 90 days of the employee engaging or attempting to engage in activities protected by the bill, there is a rebuttable presumption that the adverse action is a retaliatory action in violation of the bill.

A person found to have experienced retaliation is entitled to back pay and reinstatement to the

person's previous position, wages, benefits, hours, and other conditions of employment.

Compliance and Enforcement.

It is unlawful for a child care employer to employ a child care worker for lower wages than those established as the minimum child care employment standards or under any other working conditions that violate the minimum child care employment standards adopted by the Board.

L&I may investigate possible violations of the minimum child care employment standards whenever it has cause to believe that a violation has occurred, either on the basis of a report of a suspected violation or on the basis of any other credible information, including violations found during the course of an investigation.

One or more child care workers deeming themselves to be injured by any violation has a civil action in a court of competent jurisdiction to enjoin further violations, to obtain reinstatement, to recover the actual damages sustained by the person, together with the cost of suit including reasonable attorney fees. A child care worker found to have experienced retaliation is entitled to back pay and reinstatement to the worker's previous position, wages, benefits, hours, and other conditions of employment.

An agreement between a child care employer and child care worker or labor union that fails to meet the minimum standards established by the Board is not a defense to a civil action.

Appropriation: None.

Fiscal Note: Requested on January 8, 2025.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.