

HOUSE BILL REPORT

HB 1128

As Reported by House Committee On:
Labor & Workplace Standards

Title: An act relating to establishing a child care workforce standards board.

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 History:

Committee Activity:

Labor & Workplace Standards: 1/15/25, 2/7/25 [DPS].

Brief Summary of Substitute 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.

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; Scott, Vice Chair; Bronoske, Obras and Ortiz-Self.

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.

Minority Report: Do not pass. Signed by 2 members: Representatives Schmidt, Ranking Minority Member; McEntire.

Minority Report: Without recommendation. Signed by 1 member: Representative Ybarra, Assistant Ranking Minority Member.

Staff: Kelly Leonard (786-7147).

Background:

Minimum Wage and Other Working Conditions.

The Minimum Wage Act (MWA) establishes a statewide minimum hourly wage, requires 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 the WISHA and adopts both general and industry-specific workplace safety and health standards. If L&I finds that an employer has committed a violation, L&I 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 Substitute Bill:

Washington State Childcare Workforce Standards Board.

The Washington State Childcare Workforce Standards Board (Board) is established. The Board is composed of 10 members appointed by the Governor, representing certain interests and agencies. The Governor must make initial appointments no later than September 1, 2025. 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. By October 1, 2025, L&I and the DCYF must enter into a formal data sharing agreement for purposes of implementing the bill.

Minimum Child Care Employment Standards.

The Board must adopt rules establishing statewide employment standards for child care workers, which includes any worker providing child care services, excluding administrative staff, at a child care provider licensed or certified by the DCYF. This specifically includes any family child care provider. 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 may also adopt standards for specific occupations and geographic regions.

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 may consider certain factors and available data when developing 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 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 WISHA, 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 training curriculum. 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 three languages most commonly spoken by child care workers.

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. 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. It is also unlawful to 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. 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.

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.

Substitute Bill Compared to Original Bill:

The definition of "child care worker" is modified. It means any worker providing child

care services, excluding administrative staff, "at a child care provider licensed or certified by the Department of Children, Youth, and Families" (and otherwise retains language stating that the term includes family child care providers).

The substitute bill requires one of worker representatives on the Board to represent workers in school-age programs, and requires one of the employer representatives to represent a small business of 15 or fewer employees. It further specifies that a vote of six members is required for the Board to take action (rather than five members).

The Board may adopt standards applicable to specific geographic regions (in addition to statewide standards and specific occupation standards as provided in the underlying bill), and the Board may consider certain information and factors when making determinations for standards (rather than requiring the Board to consider such information and factors). The substitute bill removes language specifying that, if the standards result in cost increases that exceed any applicable federal payments, the standards are not effective until an appropriation sufficient to cover the rate increase is obtained. The provision making the standards contingent on state funding to cover cost increases for certain collective bargaining agreements is modified by specifying that this contingency does not otherwise have the effect of prohibiting the state from providing funding to meet those standards.

The training materials must be provided in the three most commonly spoken languages (rather than the four most commonly spoken languages). The training curriculum must also include information on workers' rights to leave under the Paid Family and Medical Leave Act.

The substitute bill adds a provision requiring L&I and the DCYF to enter into a formal data sharing agreement for purposes of implementing the bill by October 1, 2025.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Child care workers are critical to the wellbeing of children and the functioning of the economy. High quality child care helps children to thrive and parents to stay in the workforce. But child care workers need to be able to pay their bills and take care of their families too. The state should recognize the importance of this work by establishing a workforce standards board, which can help raise standards for wages and conditions. There are at least six other workforce standards boards operating in certain cities and states, which

have improved wage, overtime, and leave standards, helping to reduce turnover and stabilize certain industries. This model is particularly helpful for fractured industries with a high number of employers where organizing and collective bargaining can be challenging. These boards can engage with workers and employers directly when developing standards, ensuring those standards are workable and fair. This is good for children, workers, employers, and the economy.

(Opposed) This bill is not the right approach to solving problems in the child care industry. The bill creates an unelected, independent board that will not be accountable to those it impacts. Businesses support increasing access to affordable, quality childcare, but it is important to take meaningful steps to address the underlying problems. This bill ignores those problems; instead, it will significantly increase the costs of childcare through imposing more regulatory barriers. These regulations will unnecessarily increase wages beyond what the Legislature or the people have established by law and initiative. Given the state's fiscal issues, there are also concerns with the costs of implementing the bill. There was a much narrower proposal that passed in California, but it cost over 10 million dollars just to get the program up and running.

Persons Testifying: (In support) Representative Mary Fosse, prime sponsor; Maya Washington, MomsRising; Mara Cartner, child care teacher, Small Faces; Heather Kinney, former lead teacher, Cadence Academy; Joe Kendo, Washington State Labor Council, AFL-CIO; Diana Llanes, Owner, Once Upon a Time Bilingual Child Care Center; David Madland, Center for American Progress; and Heather Kinney.

(Opposed) Patrick Connor, NFIB; and Lindsey Hueer, Association of Washington Business.

Persons Signed In To Testify But Not Testifying:

Sage Schafel, Early Care and Education Consortium; and David Foster, KinderCare.