

SENATE BILL REPORT

SB 5062

As Reported by Senate Committee On:
Labor & Commerce, January 31, 2025

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

Brief Description: Establishing a child care workforce standards board.

Sponsors: Senators Stanford, Wilson, C., Saldaña, Trudeau, Conway, Dhingra, Shewmake, Frame, Nobles, Pedersen, Salomon and Valdez.

Brief History:

Committee Activity: Labor & Commerce: 1/20/25, 1/31/25 [DPS-WM, DNP].

Brief Summary of First Substitute Bill

- Establishes a state Childcare Workforce Standards Board (Board) to establish minimum employment standards for child care workers, including standards on compensation and other working conditions.
- Establishes areas of review and considerations for the Board when establishing standards and requires review of employment standards every four years.
- Requires the Board to establish a training curriculum for child care workers and to certify worker organizations to provide the training.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 5062 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Saldaña, Chair; Conway, Vice Chair; Alvarado, Ramos and Stanford.

Minority Report: Do not pass.

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.

Signed by Senators King, Ranking Member; Braun, MacEwen and Schoesler.

Staff: Jarrett Sacks (786-7448)

Background: Minimum Wage and Other Employment Standards. 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.

The Industrial Welfare Act contains a number of labor standards, such as the Family Care Act and child labor laws. It is also the authority for the L&I's rules on meals and rest breaks. Employees must generally be allowed paid rest periods of at least ten minutes for every four hours worked, and at least 30 minutes for a meal period for every five hours worked.

Workplace Safety. 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. The Department of Children, Youth, and Families (DCYF) regulates child care licensing. 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 DCYF. DCYF has 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.

Summary of Bill (First Substitute): Childcare Workforce Standards Board. The Childcare Workforce Standards Board (Board) is created. Board members are appointed by the Governor and must include:

- three members who represent child care workers (Workers), with one being appointed from a list of three submitted by the largest organization representing family child care providers, one being appointed from a list of three submitted by the largest organization representing child care center workers, and one representing workers in school age programs;
- three members who represent child care employers (Employers) or employer organizations, with at least one representing child care family home providers and one representing a small business of 15 or fewer employees;
- one representative of a professional development or training program for workers;

- one representative of an organization representing parents; and
- the secretary of DCYF and the director of L&I (Director), or their designees.

Initial appointments to the Board must be made by September 1, 2025. Initial appointments are staggered, after which members serve four-year terms. Board members may not be appointed for more than two full consecutive four-year terms. The Director must provide administrative staff support to the Board and may employ personnel to carry out the duties of the Board.

Duties of the Childcare Workforce Standards Board. The Board must adopt rules establishing minimum child care employment standards that are reasonably necessary and appropriate to protect the health and safety of Workers and to ensure Workers are properly trained and informed about their rights. A vote of six members is required for the Board to take any action. Adopted standards must include, as appropriate, standards on compensation and other working conditions. The Board must establish statewide standards and may adopt standards that apply to specific child care occupations or geographic regions. Initial standards for wages must be adopted by August 1, 2026.

The Board may not adopt standards regarding licensing of child care facilities, nor may it adopt less protective standards to Workers as any other applicable statute, rule, or standards adopted by the Board, with certain exceptions. If any minimum standards are necessary to protect the health and safety of Workers fall within the jurisdiction of WISHA, the Board must recommend the occupational health and safety standard to the Director, who must initiate rulemaking on the standard, unless the Director determines that the recommended standard is outside the statutory authority of L&I, 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.

The Board must investigate market conditions and the existing wages, benefits, and working conditions of 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 Workers in the relevant geographic area and child care occupation. Initial employment standards adopted by the Board take effect on January 1, 2027, and remain in effect until subsequent standards are adopted.

In determining if employment standards are reasonably necessary to protect the health and welfare of Workers, the Board may consider:

- wage rate and benefit data collected by, or submitted to, the Board for Workers in the relevant geographic area and child care occupations;
- statements showing wage rates and benefits paid to Workers in the relevant geographic area and child care occupations;
- signed collective bargaining agreements applicable to Workers in the relevant geographic area and child care occupations;

- testimony and information from current and former Workers, Worker organizations, 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.

If the established child care employment standards result in an increase in costs for services by child care providers who collectively bargain with the Governor, the standards are not effective until the Legislature appropriates funding sufficient to cover the increase in costs. This provision does not prohibit the state from providing funding to meet standards set by the Board.

The Board must review established standards at least once every four years.

If a standard adopted by the Board conflicts with a rule adopted by another state agency, the rule adopted by the Board applies to Workers and Employers, unless the rule adopted by the other state agency was adopted after the Board's rule and is more protective or beneficial than the Board's standard. If the secretary of DCYF determines that a standard established by the Board in rule or recommended by the Board conflicts with requirements in federal regulations for child care certification, or with state statutes or rules governing licensure of Employers, the federal regulations, state child care licensure statutes, or rules take precedence, and the conflicting Board standard or rule does not apply to Workers or Employers. The secretary is required to provide a written explanation of the rule or recommendation and how it conflicts with the federal regulations.

Child Care Worker Training. The Board must certify Worker organizations to provide training to Workers. The Board must establish certification criteria and renewal processes by rule. The criteria must ensure that a Worker organization is able to provide:

- effective, interactive training on the information required by the bill; and
- follow-up written materials and responses to inquiries from Workers in the three languages most commonly spoken by Workers in the state.

The Board must establish training curriculum requirements, which must at least provide information on:

- the applicable compensation and working conditions in the minimum standards or local minimum standards established by the Board;
- the antiretaliation protections established in the bill;
- how to enforce the provisions of the bill, including information on reporting violations and the remedies available to Workers;
- the purposes and functions of the Board and information on upcoming hearings,

- investigations, or other opportunities for Workers to become involved in Board proceedings;
- workers' rights to paid family and medical leave;
 - other rights, duties, and obligations under the bill;
 - any updates or changes to training information provided since the most recent training session; and
 - labor standards in other applicable local, state, and federal laws, rules, and ordinances regarding child care working conditions or child care Worker health and safety.

The Board must hold at least one public hearing to solicit input before establishing the initial curriculum. The Board must review its curriculum annually.

A certified Worker organization:

- must use a curriculum for its training sessions that meets requirements established by the Board;
- must provide trainings that are interactive and conducted in the three languages most commonly spoken by child care workers in the state ;
- must, at the end of each training session, provide attending Workers with follow-up materials on the topics covered in the training session, in order to fully inform Workers of their rights and opportunities;
- must make itself reasonably available to respond to inquiries from Workers during and after training sessions; and
- may conduct surveys of Workers who attend a training session to assess the effectiveness of the training session and industry compliance state laws, rules, and ordinances governing child care working conditions or Worker health and safety.

Employers must ensure their Workers complete one hour of the required training every two years. If requested by a certified Worker organization, an Employer must, after a training session provided by the certified Worker organization, provide the certified Worker organization with the names and contact information of the Workers who attended the training session, unless a Worker opts out by providing a written statement to their Employer. Employers must compensate Workers completing the required training at their regular hourly rate of wages and benefits and reimburse the Worker for any travel expenses if the training is held off-premises.

Notice and Anti-Retaliation Provisions. Employers must provide Workers notices of their rights and obligations under applicable minimum child care employment standards and local minimum standards, as well as information about contacting L&I for assistance.

An Employer may not take an adverse action against a Worker because the person has exercised or attempted to exercise their rights under the bill, including:

- participating in any process or proceeding, including Board hearings, investigations, or other related proceedings;
- communicating with other Workers or participating in activities with a Worker

- organization regarding matters covered by the bill; or
- attending or participating in the required training.

It is unlawful for an Employer to:

- inform another Employer that a Worker or former 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 Worker, former Worker, or family member of a Worker to a federal, state, or local agency for exercising or attempting to exercise any right protected under the bill.

Adverse actions by an Employer within 90 days of the employee engaging or attempting to engage in a protected activity creates a rebuttable presumption that the action by the Employer is retaliatory. A person found to have experienced retaliation is entitled to back pay and reinstatement to the person's previous wages, benefits, hours, and other conditions of employment.

Enforcement. L&I may investigate possible violations of the bill or of minimum child care employment standards established by the Board. One or more Workers may file a civil action in a court of competent jurisdiction to enjoin further violations, obtain reinstatement, to recover actual damages sustained by the person, together with the cost of the suit including reasonable attorney fees. Filing a civil action for retaliation terminates L&I's processing of the retaliation complaint.

Definitions. A child care worker is any worker providing child care services, excluding administrative staff, at a child care provider licensed by DCYF and includes family child care providers. A child care employer is any employer of child care workers.

Data Sharing. L&I and DCYF must enter into a formal agreement that includes data sharing of information necessary to implement the bill.

EFFECT OF CHANGES MADE BY LABOR & COMMERCE COMMITTEE (First Substitute):

The definition of child care worker is modified to workers providing child care services at DCYF licensed child care providers. One of the worker representatives on the Board must represent workers in school age programs. One of the employer representatives on the Board must represent a small business of 15 or fewer employees. The required number of votes for the Board to take an action is changed from five to six. It is clarified that the Board may adopt standards that apply to a specific geographic region.

The Board may consider, rather than must consider, specified information when adopting compensation standards. The provision that, if an adopted child care standard results in an increase in costs that exceed applicable federal payments, the standard is not effective until an appropriation sufficient to cover the rate increase is obtained is removed. The provision

that a standard that increases the costs for services for state collectively-bargained family child care providers is not effective until the Legislature appropriates funding does not prohibit the state from providing funding to meet compensation standards.

The number of languages for which written training materials must be provided is changed from the four languages most commonly spoken by child care workers in the state to three. The training curriculum established by the Board must include information on workers' rights to paid family and medical leave. L&I and DCYF must enter into a data sharing agreement by October 1, 2025.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The bill allows a way to improve access to child care. The industry is fractured and we need a way to communicate with many employers to address workplace standards. The bill allows collaboration between employers, workers, and parents to improve the industry and make it work for everyone. The work is physically demanding and low wages take an emotional toll. Working in child care should not put someone in financial hardship. The bill will allow workers to stay in the field. A nursing home workforce board in Minnesota has been a huge success in addressing the staffing crisis.

CON: The bill is a slippery slope that risks inflating costs and hurting centers that are already struggling to stay open. The bill is too much regulation, which will reduce access to child care. The lack of affordability is a problem, but this bill would further increase costs. There is already a full system of oversight. Employers depend on flexibility in staffing.

OTHER: Public investment in child care is needed, but there are concerns about the scope and whether this is the correct approach. It is unclear if centers will receive public funding to implement the bill. The bill will increase regulatory complexity. Child care workers are already required to do annual training and adding another training on top will increase cost to families. If public funding is not provided, the cost of child care will increase under the bill. The bill may lead to less acceptance of subsidies.

Persons Testifying: PRO: Senator Derek Stanford, Prime Sponsor; Carol Gilmore, child care director; Wren Schmid, child care teacher; Maggie Humphreys, MomsRising; Angelo Pidone, child care teacher; Heather Kinney, child care teacher; Joe Kendo, Washington State Labor Council, AFL-CIO; Teresa Brees.

CON: Lindsey Hueer, Association of Washington Business; Dana Christiansen; Suzie Hanson, Washington Federation of Independent Schools; Amy Anderson, WA Childcare Centers Association.

OTHER: Alison May, KinderCare Learning Companies; Jenna Borkoski, Learning Care Group.

Persons Signed In To Testify But Not Testifying: No one.