

Department of Revenue Fiscal Note

Bill Number: 6551 SB	Title: Wholesale sales/excise tax	Agency: 140-Department of Revenue
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2010	FY 2011	2009-11	2011-13	2013-15
GF-State-State 01 - Taxes 01 - Retail Sales Tax					(1,494,000)
GF-State-State 01 - Taxes 10 - Compensating Tax					(105,000)
Performance Audit-State 01 - Taxes 01 - Retail Sales Tax					(2,000)
Total \$					(1,601,000)

Estimated Expenditures from:

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years					(0.9)
Account					
GF-STATE-State 001-1					(125,900)
Total \$					(125,900)

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

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.
- ☐ Requires new rule making, complete Part V.

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Request # 6551-1-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

BACKGROUND:

Until January 1, 2010, taxpayers who purchased goods and certain services for resale could claim exemption from sales tax by using a resale certificate. A blank resale certificate was available on the Department of Revenue's (Department) Internet site. Using the name, address, and business registration number, the buyer completed the certificate and gave it to the seller. To verify that sales are wholesale sales prior to January 1, 2010, sellers must keep resale certificates with their business records.

Contractors who perform retail and wholesale construction activities followed the same process when purchasing construction materials and subcontractor services. Because speculative contractors make sales of real property that are not subject to sales tax, they are the consumers of the materials they use and construction services they purchase and must pay sales or use tax on materials and sales tax on the purchase of construction services. Contractors performing government contracting and public road construction activities must also pay retail sales on all materials incorporated in these projects.

To reduce the misuse of resale certificates by persons who are not entitled to make purchases at wholesale without paying sales tax, legislation (SB 6173) was enacted in 2009 to replace resale certificates with a "seller's permit" beginning January 1, 2010. This 2009 legislation requires persons who purchase goods and certain services for resale to apply to the Department for a seller's permit. However, the Department may automatically issue or renew seller's permits to businesses, other than construction contractors, if the Department is satisfied that the business is entitled to purchase goods or services at wholesale. Permits issued to businesses other than construction contractors are valid for either a two- or four-year period depending on when the business obtained its certificate of registration with the Department.

Construction contractors must apply to the Department for a seller's permit. On the application, contractors must provide information about the amounts spent for materials and contract labor for retail construction, speculative building, public road construction, and government contracting activities. Permits issued to construction contractors are valid for 12 months.

Although SB 6173 refers to the new permit as a seller's permit, to avoid confusion for taxpayers the Department refers to the permit as a reseller permit.

SUMMARY OF HB 2758:

This proposal:

- 1) Provides that a reseller permit issued to a contractor will be valid for 24 months instead of 12 months, beginning July 1, 2013. This is the only provision of the proposal that has a fiscal impact.
- 2) Allows for the issuance of a reseller permit to a construction contractor without an application when the Department, based on criteria adopted by the Department by rule, is satisfied that the contractor is entitled to purchase goods and services without the payment of sales tax.
- 3) Makes numerous technical amendments to replace references to "seller's permit" with "reseller permit," eliminate redundant or unnecessary language, and revise language to improve clarity and provide greater consistency among statutes.
- 4) Requires contractors to include purchase information for wholesale construction activities in an application for a reseller permit.
- 5) Relieves the seller of the responsibility to obtain a copy of the buyer's reseller permit or other acceptable forms of documenting wholesale sales if the buyer has a valid reseller permit as verified by the Department. This relief applies only

if the seller verifies electronically with the Department the validity of its customers' reseller permits at least once per calendar year.

6) Authorizes the Department to provide, by rule, for a uniform expiration date for reseller permits.

7) Identifies the circumstances when a buyer is considered to have improperly used a reseller permit for purposes of the 50 percent penalty for misusing a reseller permit.

8) Clarifies that the Department may disclose, via its website, reseller permit numbers as well as the names of the permit holders, the expiration date of the permits, the status of the permits, and other disclosable information.

9) Provides that sections 1, 4 through 10, 13, 14, and 16 are retroactive to January 1, 2010, and that sections 2, 3, 11, 12, and 15 are prospective only and take effect July 1, 2010.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

ASSUMPTIONS/DATA SOURCES

Increased compliance from construction contractors accounts for almost 40 percent of the estimated revenue gain resulting from replacing resale certificates with Department-issued reseller permits.

It is assumed that revenues realized from contractors will decrease by 2.5 percent by allowing reseller permits for contractors to be valid for 24 months instead of 12 months. This provision is effective July 1, 2013.

REVENUE ESTIMATES

The Department estimates that state revenues will decrease by \$743,000 in Fiscal Year 2014 and \$858,000 in Fiscal Year 2015. Local governments will experience a revenue loss of \$199,000 in Fiscal Year 2014.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2010 -	\$ 0
FY 2011 -	\$ 0
FY 2012 -	\$ 0
FY 2013 -	\$ 0
FY 2014 -	\$ (743)
FY 2015 -	\$ (858)

Local Government, if applicable (cash basis, \$000):

FY 2010 -	\$ 0
FY 2011 -	\$ 0
FY 2012 -	\$ 0
FY 2013 -	\$ 0
FY 2014 -	\$ (199)
FY 2015 -	\$ (230)

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing

This proposed legislation will result in estimated savings for the Department of \$125,900 in Fiscal Year 2015. These cost savings reflect the change from a twelve-month renewal period to a twenty-four month renewal period for contractors. The twenty-four month permit would decrease the amount of applications the Department would receive.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years					(0.9)
A-Salaries and Wages					(80,800)
B-Employee Benefits					(20,200)
E-Goods and Services					(23,100)
J-Capital Outlays					(1,800)
Total \$					\$(125,900)

III. B - Detail: List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA

Job Classification	Salary	FY 2010	FY 2011	2009-11	2011-13	2013-15
EXCISE TAX EX 2	42,583					(0.3)
EXCISE TAX EX 3	50,563					(0.5)
OFF ASST 3	29,780					(0.2)
Total FTE's	122,926					(0.9)

Part IV: Capital Budget Impact

NONE.

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Should this legislation become law, the Department will use the standard process to amend WAC 458-20-10201 and WAC 458-20-10202. The Department will not incur an additional cost because it is currently amending these rules and will incorporate this legislation as necessary. Persons affected by this rule-making would include sellers that make wholesale sales and buyers that make wholesale purchases.