

Multiple Agency Fiscal Note Summary

Bill Number: 2320 S HB	Title: State officers/transactions
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Estimated Cash Receipts

Agency Name	2011-13		2013-15		2015-17	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of Attorney General	Non-zero but indeterminate cost. Please see discussion."					
Total \$	0	0	0	0	0	0

Estimated Expenditures

Agency Name	2011-13			2013-15			2015-17		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Administrative Office of the Courts	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Office of Attorney General	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total	0.0	\$0	\$0	0.0	\$0	\$0	0.0	\$0	\$0

Local Gov. Courts *	Non-zero but indeterminate cost. Please see discussion.								
Local Gov. Other **	Non-zero but indeterminate cost. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Impact

NONE

Prepared by: Cheri Keller, OFM	Phone: 360-902-0563	Date Published: Final 2/ 7/2012
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID 31715

FNS029 Multi Agency rollup

Judicial Impact Fiscal Note

Bill Number: 2320 S HB	Title: State officers/transactions	Agency: 055-Admin Office of the Courts
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost. Please see discussion.

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

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.

Legislative Contact	Wendy Polzin	Phone: 360-786-7137	Date: 02/02/2012
Agency Preparation:	Julia Appel	Phone: (360) 705-5229	Date: 02/03/2012
Agency Approval:	Dirk Marler	Phone: 360-705-5211	Date: 02/03/2012
OFM Review:	David Dula	Phone: (360) 902-0543	Date: 02/03/2012

Request # -1

Part II: Narrative Explanation

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

This bill adds new sections to chapter 9A.60 RCW.

A state officer may not buy, sell, or invest in securities, commodities, or real property on the basis of material nonpublic information if the officer gained the information by reason of his or her official position. A violation of this offense is an unranked class C felony. The AGO has concurrent authority with county prosecuting attorneys to investigate and prosecute violations.

The AGO or a county prosecutor may bring a civil action against a state officer for a violation of the felony offense. If the court finds the state officer committed the violation, the court must order that any profits or other benefit be disgorged and paid to any person who suffered a financial loss due to the violation or to the State Treasurer for deposit in the General Fund.

II. B - Cash Receipts Impact

Potential cash receipts are indeterminate.

II. C - Expenditures

There is no data to predict how many new criminal charges and/or civil actions might be filed as a result of the provisions in this bill. However, as an example, if 20 felony charges and 20 civil actions are filed in superior court, the total costs would be less than \$50,000 annually.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

Individual State Agency Fiscal Note

Bill Number: 2320 S HB	Title: State officers/transactions	Agency: 100-Office of Attorney General
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost. Please see discussion.

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

Estimated Capital Budget Impact:

NONE

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.

Legislative Contact: Wendy Polzin	Phone: 360-786-7137	Date: 02/02/2012
Agency Preparation: Toni Ursich	Phone: (509) 456-3123	Date: 02/06/2012
Agency Approval: Sarian Scott	Phone: (360) 586-2104	Date: 02/06/2012
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 02/07/2012

Request # 12-126-1

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.

Section 1 adds a new section to RCW 9A.60.

Subsection 1(1) prohibits state officers from making securities, commodities or real estate transactions on the basis of material, non-public information if the officer gained the information by virtue of his or her position.

Subsection 1(2) makes violation of this section a class C felony.

Subsection 1(3) gives the Attorney General's Office (AGO) concurrent authority with county prosecutors to investigate and prosecute violations of this section.

Subsection 1(4) is a definitions section.

Section 2 adds a new section to chapter 9A.60 RCW authorizing the AGO and county prosecutors to bring civil actions for violations of section 1. It requires courts to order a state officer found to have violated section 1 to disgorge benefits received from that violation, and pay them to any person who suffered a material financial loss due to the violation or to the State Treasurer for deposit to the general fund.

This bill is assumed effective July 1, 2012.

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.

Indeterminate cash receipts.

These AGO activities are funded with General Fund-State dollars.

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 functions.

Indeterminate expenditure impact.

Assumptions:

1. We assume these AGO activities are funded 100% with General Fund-State dollars.
2. We assume that prosecutions will increase under this bill, but we are unable to determine the number of such prosecutions.

3. We assume that this bill confers prosecutorial authority and jurisdiction on the AGO outside of the statute that already exists for this purpose in RCW 43.10.230.

4. We assume that there may be confusion as to whether the AGO has the obligation to pursue cases under this bill because the procedural requirements by which the Governor or a county prosecutor confer jurisdiction under RCW 43.10.230 will not apply.

5. We assume that the cost recovery requirements of RCW 43.10.230, which require the county prosecutor and AGO to agree on the payment of costs associated with a prosecution, do not apply to this bill.

6. We assume, based on prior appellate cases, that the AGO will be responsible for the costs of the prosecutions under this bill, including the costs of any public defense necessary in the case.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

NONE

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.

None

LOCAL GOVERNMENT FISCAL NOTE

Department of Community, Trade and Economic Development

Bill Number: 2320 S HB	Title: State officers/transactions
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- ☐ Cities:
- ☒ Counties: For felony prosecution, defense and jail costs
- ☐ Special Districts:
- ☐ Specific jurisdictions only:
- ☐ Variance occurs due to:

Part II: Estimates

- ☐ No fiscal impacts.
- ☐ Expenditures represent one-time costs:
- ☐ Legislation provides local option:
- ☒ Key variables cannot be estimated with certainty at this time: Number of charges

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

Indeterminate Impact

Part III: Preparation and Approval

Fiscal Note Analyst: David Elliott	Phone: (360) 725 5033	Date: 02/03/2012
Leg. Committee Contact: Wendy Polzin	Phone: 360-786-7137	Date: 02/02/2012
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 02/03/2012
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 02/03/2012

Part IV: Analysis

A. SUMMARY OF BILL

Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.

Changes from the previous version of the bill (HB 2320): Language in Section 2 relating to actions by the Attorney General or county prosecutor is clarified.

Summary of this version of the bill:

The bill would create a new class C felony crime for state officers trading on information gained by reason of his or her official position.

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.

There are no changes in expenditure impact from the previous version of the bill.

Expenditure impacts of this version of the bill:

There may be a few felony filings for the new crime. There are no data to predict the number of new filings. In order to illustrate the potential costs a discussion of felony costs is included:

BACKGROUND ON FELONY ENFORCEMENT COSTS:

Total costs for felony prosecution (\$2,753 per case), defense (a range of between \$1,986 and \$2,089 per case) and a jail sentence (\$8,631) would be between \$13,370 and \$13,473 per case.

Prosecution costs -- The average cost for prosecuting an unranked felony is approximately \$2,753 per case. Including an appeal raises the cost to approximately \$3,661 per case (Local Government Fiscal Note Program's 2010 prosecutor survey). Appeals occur in an estimated 8 to 10 percent of cases.

Public defender costs -- The cost for public felony defense representation ranges from approximately \$1,986 per case to \$2,089 per case with a trial; appeals are usually a county expense. Approximately 90 percent of felony cases qualify for public defender representation with 11 percent expected to go to trial and 8 percent of those trials are expected to lead to an appeal (2008 LGFN defender cost survey).

Jail Costs -- According to data compiled by the Caseload Forecast Council (CFC), a person convicted of an unranked felony would likely serve their sentence in jail (a local cost). It is not clear what the average sentence for this crime would be but the sentence would likely be served in jail. According to the CFC statistical summary of Adult Felony Sentencing the average jail sentence for "other" felonies was 3.6 months. The daily jail bed rate is \$79.92 according to the LGFN 2011 jail cost survey (weighted by population). The cost of a sentence would be \$8,631. (3.6 months x 30 days/month x \$79.92 a day = \$8,631).

PLEASE NOTE: Court impacts, including judicial costs, clerk costs, and court fees, are described in fiscal notes prepared by the Administrative Office of the Court (AOC). Local government fiscal notes include county expenditures for indigent defenders, county prosecutors and jail costs.

Note on public defense -- Because public defense varies greatly in Washington state, LGFN uses a range of costs for defense depending on the county providing the defense. Larger counties have offices of public defense that are similar in size and capability to the county prosecutor's office. These offices have resources and salary parity comparable to the prosecuting attorney and have access to investigators and other resources at county expense. Many counties contract with local law firms and nonprofit defense agencies on a variety of basis. Some counties pay per case, some per hour, some pay trial costs on a per-diem basis while others pay on a per-hour basis. More is paid for felony cases than misdemeanor cases. Finally, some counties hire local attorneys on a case-by-case basis, either on a per-hour or per-case basis.

C. SUMMARY OF REVENUE IMPACTS

Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.

There are no changes in revenue impact from the previous version of the bill.

Revenue impacts of this version of the bill:

None

SOURCES FOR EXPENDITURE AND REVENUE:

Administrative Office of the Courts (AOC) fiscal note

Statistical Summary of Adult Felony Sentencing published by CFC

House Bill Report

LGFN 2010 prosecutor costs survey

LGFN 2011 jail cost survey (weighted by population)

LGFN 2008 public defender costs survey