

Multiple Agency Fiscal Note Summary

Bill Number: 5668 SB	Title: Voting rights
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Estimated Cash Receipts

NONE

Estimated Expenditures

Agency Name	2015-17			2017-19			2019-21		
	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 the Secretary of State	.0	0	0	.0	0	0	.0	0	0
Superintendent of Public Instruction	.0	0	0	.0	0	0	.0	0	0
Total	0.0	\$0	\$0	0.0	\$0	\$0	0.0	\$0	\$0

Local Gov. Courts *	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Loc School dist-SPI									
Local Gov. Other **									
Local Gov. Total									

Estimated Capital Budget Impact

NONE

Prepared by: Kathy Cody, OFM	Phone: (360) 902-9822	Date Published: Final 2/ 6/2015
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

ENPID: 39217

FNS029 Multi Agency rollout

Judicial Impact Fiscal Note

Bill Number: 5668 SB	Title: Voting rights	Agency: 055-Admin Office of the Courts
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2016	FY 2017	2015-17	2017-19	2019-21
Counties					
Cities					
Total \$					

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.

Contact	Phone:	Date: 02/02/2015
Agency Preparation: Susan Arb	Phone: 509-453-8135	Date: 02/04/2015
Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date: 02/04/2015
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 02/04/2015

Request # 5668 SB-1

Part II: Narrative Explanation

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

Summary:

This bill, known as the Washington voting rights act of 2015, would create a cause of action when protected classes do not have an equal opportunity to elect candidates of their choice to the governing body of a political subdivision.

Sections with potential court impact:

Section 3 would create a violation for political subdivisions when an election exhibits polarized voting or when protected classes do not have an equal opportunity to elect candidates of their choice.

Section 4 would create a cause of action when a political subdivision violates section 3, whether or not there is proof of the intent to discriminate. The trial court must set a trial date no later than 1 year after the filing of the complaint. The plaintiff could seek a temporary restraining order or preliminary injunction without posting a bond or other security. No action could be filed before January 15, 2016.

Section 6 would allow the trial court, upon finding a violation of section 3, to order appropriate remedies, including imposition of a district-based election system and holding new elections.

Section 7 would allow the plaintiffs to recover reasonable attorneys' fees and costs. The political subdivision would be allowed to recover reasonable attorneys' fees and costs only if the court finds the action to be frivolous under RCW 4.84.185.

Section 8 would allow a member of a protected class and a resident of the political subdivision to file the action in the superior court of that county, or a near county if the action is against the county.

Section 11 would limit the act to cities and towns of populations over 1,000 and school districts with K-12 full-time equivalent enrollments of over 250.

II. B - Cash Receipts Impact

None.

II. C - Expenditures

There is insufficient data available to estimate the fiscal impact of this bill. Based upon information provided and input from the courts, it is assumed that the impact would be less than \$50,000 per year. The \$50,000 expenditure level represents approximately 84 hours (0.07 FTE) of superior court judicial officer time annually cumulative for all superior courts in the state with associated support staff and operational costs. It is assumed, therefore, that this bill would require less than 84 hours of judicial officer time statewide on an annual basis. However, there is no data available to predict how many suits, and in what time frame or jurisdiction, might be filed under the provisions of the bill. For the purposes of this estimate, we are assuming that the fiscal impact would be less than \$50,000 annually, but in this instance, the level of expenditure is really unknown. It is possible that more than a few lawsuits will be filed statewide, which could easily surpass the \$50,000 expenditure level.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

SOURCES:

Office of the Secretary of State

Washington Association of County Officials (WACO)

Washington State Association of County Auditors (WSACA)

Individual State Agency Fiscal Note

Bill Number: 5668 SB	Title: Voting rights	Agency: 085-Office of the Secretary of State
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Part I: Estimates

☒ **No Fiscal Impact**

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:	Phone:	Date: 02/02/2015
Agency Preparation: Temple Allen	Phone: 360-704-5215	Date: 02/05/2015
Agency Approval: Mark Neary	Phone: 360-902-4186	Date: 02/05/2015
OFM Review: Kathy Cody	Phone: (360) 902-9822	Date: 02/05/2015

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.

This bill impacts county, city, and local district boundaries. State offices and districts are exempt. There is no additional cost to the state.

Costs as a result of this bill would occur at the county level.

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.

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.

Part III: Expenditure Detail

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.

Individual State Agency Fiscal Note

Bill Number: 5668 SB	Title: Voting rights	Agency: 350-Supt of Public Instruction
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Part I: Estimates

☒ **No Fiscal Impact**

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:	Phone:	Date: 02/02/2015
Agency Preparation: Mike Woods	Phone: 360 725-6283	Date: 02/02/2015
Agency Approval: Mike Woods	Phone: 360 725-6283	Date: 02/02/2015
OFM Review: Kate Davis	Phone: (360) 902-0570	Date: 02/02/2015

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 2, definitions, including "district-based elections", "polarized voting", and "protected class."

Section 3

A political subdivision is in violation of this section when it is shown that election exhibit polarized voting; and members of a protected class do not have an equal opportunity to influence the outcome of an election.

Section 4

Members of different protected classes may file an action if they can demonstrate their combined voting preferences as a group or different from the rest of the electorate and demonstrate there is polarized voting that results in an unequal opportunity for these protected classes to elect candidates of their choice or influence the outcome of an election.

Section 5

Political subdivisions are authorized to change electoral systems to remedy a potential violation of section 3.

Section 6

Upon a finding of a violation of section 3, a court shall order appropriate remedies.

Section 7

The court may allow the prevailing plaintiff reasonable attorney's fees.

Section 8

Any voter who is a member of a protected calls and resides in political subdivision where a violation of section 3 is alleged may file an action if the superior court of the county in which the political subdivision is located.

Section 9

Prior to filing an action, a person shall first notify the political subdivision that a challenge is intended. If the political subdivision does not invoke its' section 5 authority to change its electoral system within 90 days of receiving notice, any person may file an action.

Section 10

If the political subdivision adopts the proposed remedy offered by the person filing an action under section 9, an action may not be brought against the political subdivision for four years.

Section 11

Provisions of this act are not applicable to school districts with K-12 full-time equivalent enrollments of less than 250. For the 13-14 school year, 80 districts had K-12 FTE enrollment of less than 250.

Section 12

School Boards are authorized to change a district-based election to be consistent with section 5 and 6 of this act.

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.

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.

No impact to OSPI.

OSPI is not responsible for school district election procedures.

Part III: Expenditure Detail

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.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5668 SB	Title: Voting rights
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- ☒ Cities: Cities, counties, and special districts would incur costs to defend against lawsuits alleging polarized voting
- ☒ Counties: Same as above
- ☒ Special Districts: Same as above
- ☐ Specific jurisdictions only:
- ☒ Variance occurs due to: Cities and towns under 1,000 exempt from legislation

Part II: Estimates

- ☐ No fiscal impacts.
- ☐ Expenditures represent one-time costs:
- ☒ Legislation provides local option: A political subdivision that uses at-large elections could change to a district-based election method
- ☒ Key variables cannot be estimated with certainty at this time: Number of lawsuits alleging polarized voting; cost of defense

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

None

Part III: Preparation and Approval

Fiscal Note Analyst: Sam Wilson	Phone: 360-725-5040	Date: 02/06/2015
Leg. Committee Contact:	Phone:	Date: 02/02/2015
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 02/06/2015
OFM Review: Kathy Cody	Phone: (360) 902-9822	Date: 02/06/2015

Part IV: Analysis

A. SUMMARY OF BILL

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

This legislation would amend RCW 36.32.020, RCW 54.12.010, and RCW 29A.76.010, add a new section to chapters 28A.343, 35.21, 35A.21, and 52.14 RCW, and a new chapter to Title 29A RCW.

Section 3 (1) states that a local jurisdiction is in violation of this section when its elections exhibit polarized voting and members of a protected class do not have equal opportunity to elect candidates and influence the outcome of an election.

Section 5 allows local jurisdictions to alter their election system to remedy a potential violation under Section 3. Sec. 5 (2) states that, if a local jurisdiction wishes to implement a district-based voting system they must follow the criteria outlined under this subsection. Sec. 5 (3) requires jurisdictions to hold public hearings in the event of such implementation. Sec. 5 (4) (c) requires jurisdictions implementing a district-based voting system to hold new elections for candidates that have at least two years remaining in their term.

Section 6 3 (a) requires jurisdictions in violation of this act to hold new elections with a five-day filing period, if court ordered within a specific window of time.

Section 8 allows a member of a protected class residing in a jurisdiction where a violation is alleged may file action in the superior court of the county or in the superior court of the two nearest judicial districts if the action is against the county.

Section 10 (3) specifies that if two or more notices containing different remedies, the jurisdiction must seek a mutual solution with the people who brought the notice.

Section 11 exempts from this legislation cities and towns with populations under one thousand population.

Section 14 allows cities and towns to change their electoral system. All of the jurisdiction's officials with terms of at least two years are subject to reelection.

Section 16 requires fire districts to be redrawn subject to Section 5.

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 potentially significant (greater than \$1 million) but indeterminate costs for cities, counties, and special districts that are defendants in filings under Section 3 of the bill. Such jurisdictions would incur costs to develop a defense, and participate in and pay for costs related to court hearings. In cases where the plaintiff prevails, jurisdictions would also have costs related to changing or establishing district lines (depending on case details), holding new elections (potentially at a special election date) and court costs for plaintiffs.

Costs for individual jurisdictions would vary based on the size and complexity of the voting district, time required to prepare a defense, number of individual plaintiffs under Section 7, and other factors, so cannot be reasonably estimated. However, the Association of Washington Cities states that litigation under a similar statute in California has resulted in costs of over \$1 million to at least one individual city. The Washington Association for County Officials (WACO) estimated that the first year of similar legislation in California resulted in over \$4 million in law suits against local governments. Washington's population is under one-fifth the size of California's.

In addition to these potential litigation-related costs, jurisdictions choosing to adopt district elections under Section 4 would incur costs to draw the districts, conduct public outreach, and hold new elections. These jurisdictions would also need to revisit district lines after each decennial census. Depending on the size and scope of these changes, costs could range from tens to hundreds of thousands of dollars, including staff and attorney time, and consulting costs for expert assistance in analyzing data and drawing districts. Costs would also vary due to a jurisdiction's size (WACO).

Overall expenditure impacts of the bill on local governments cannot be reasonably estimated given the range of potential costs in individual cases and uncertainty about the frequency with which the bill's provisions would be invoked.

BACKGROUND:

There are 39 counties, 281 cities, and 1,229 special taxing districts in Washington State. There are 56 types of special districts including school (296), fire (134), cemetery (103) port (75) public utility (28), and myriad other topics. Each of these entities elects board

members, commissioners, or other leaders by either at-large or district-based elections. The form of electoral process used by each entity is prescribed in statute and occasionally subject to board decision. When a district is divided into sub-districts (or director districts) these are to be as equal as possible in population. Generally these district boundaries are redrawn in the year following release of census information by the federal government. The districts themselves are determined by service area and/or taxing district area.

County auditor election departments conduct elections on behalf of special taxing districts, cities, counties, state government, and federal government. Each county bills its local jurisdictions for a prorated share of the cost of each election. Election costs include both fixed and variable costs related to a specific election. The cost to a jurisdiction varies significantly depending on how many other jurisdictions share the specific election date. If there are many sharing a date, each jurisdiction's share of the costs are lower. November general elections have the most participating jurisdictions so the cost to individual jurisdictions is lower. Conducting a one-issue election on a special election date usually leads to much higher costs. For example, if a city of around 25,000 population located in one of the Puget Sound counties ran its election in November it would likely cost between \$2,000 and \$4,000. The same election held on a special election date by itself might cost as much as \$75,000, ranging from \$.20 per voter to almost \$3 per voter.

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.

This legislation would not impact local government revenue.

SOURCES:

Administrative Office of the Courts fiscal note for 1413 HB
Association of Washington Cities
Local Government Fiscal Note for 1413 HB
Municipal Research and Services Center (MRSC)
Office of the Secretary of State fiscal note
Washington Association of County Officials
Washington State Association of County Auditors