

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5866 P SB S-2265.2	<b>Title:</b> Tax court, creating
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## Estimated Cash Receipts

Agency Name	2017-19		2019-21		2021-23	
	GF- State	Total	GF- State	Total	GF- State	Total
Administrative Office of the Courts	97,000	97,000	97,000	97,000	97,000	97,000
Office of Attorney General	0	0	0	2,357,400	0	4,017,838
Department of Revenue	0	0	0	0	(81,123,000)	(81,123,000)
<b>Total \$</b>	<b>97,000</b>	<b>97,000</b>	<b>97,000</b>	<b>2,454,400</b>	<b>(81,026,000)</b>	<b>(77,008,162)</b>

## Estimated Expenditures

Agency Name	2017-19			2019-21			2021-23		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Administrative Office of the Courts	.0	1,713,831	1,713,831	.0	6,315,322	6,315,322	.0	6,315,322	6,315,322
Office of Attorney General	.0	0	0	8.8	0	2,357,400	15.4	0	4,017,838
Office of Administrative Hearings	.0	0	0	.0	0	0	.0	0	0
Department of Revenue	.1	11,700	11,700	.0	2,357,400	2,357,400	(2.3)	3,546,200	3,546,200
Board of Tax Appeals	.0	0	0	.0	(2,606,000)	(2,606,000)	.0	(2,606,000)	(2,606,000)
<b>Total</b>	<b>0.1</b>	<b>\$1,725,531</b>	<b>\$1,725,531</b>	<b>8.8</b>	<b>\$6,066,722</b>	<b>\$8,424,122</b>	<b>13.1</b>	<b>\$7,255,522</b>	<b>\$11,273,360</b>

## Estimated Capital Budget Impact

NONE

all notes in
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<b>Prepared by:</b> Cheri Keller, OFM	<b>Phone:</b> 360-902-0563	<b>Date Published:</b> Final 3/29/2017
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\* See Office of the Administrator for the Courts judicial fiscal note

\*\* See local government fiscal note

FNPID: 48500

# Judicial Impact Fiscal Note

<b>Bill Number:</b> 5866 P SB S-2265.2	<b>Title:</b> Tax court, creating	<b>Agency:</b> 055-Administrative Office of the Courts
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

Account	FY 2018	FY 2019	2017-19	2019-21	2021-23
General Fund-State 001-1	48,500	48,500	97,000	97,000	97,000
Counties					
Cities					
<b>Total \$</b>	48,500	48,500	97,000	97,000	97,000

### Estimated Expenditures from:

STATE	FY 2018	FY 2019	2017-19	2019-21	2021-23
State FTE Staff Years					
<b>Account</b>					
General Fund-State 001-1		1,713,831	1,713,831	6,315,322	6,315,322
State Subtotal \$		1,713,831	1,713,831	6,315,322	6,315,322
COUNTY	FY 2018	FY 2019	2017-19	2019-21	2021-23
County FTE Staff Years					
<b>Account</b>					
Local - Counties					
Counties Subtotal \$					
CITY	FY 2018	FY 2019	2017-19	2019-21	2021-23
City FTE Staff Years					
<b>Account</b>					
Local - Cities					
Cities Subtotal \$					
Local Subtotal \$					
Total Estimated Expenditures \$		1,713,831	1,713,831	6,315,322	6,315,322

*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: Carrie Graf	Phone: 360-786-7708	Date: 03/22/2017
Agency Preparation: Renee Lewis	Phone: 360-704-4142	Date: 03/27/2017
Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date: 03/27/2017
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 03/28/2017

Request # PSB 5866 2-1

## Part II: Narrative Explanation

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

Proposed changes to the original bill:

Section 102 would change the number of judges from one per district to one per division.

Section 105 (3) would be changed to state that all decisions by the main department would be precedential until reversed, modified, or overruled by the supreme court or a three-judge panel of the tax court.

Sec. 106(1)(b) would change the word "district" to "division" to be consistent with the change to Sec. 102.

Section 106(2) would establish the salary for the judges to be the same as a court of appeals judge. The requirement for 5 years of tax experience to be a judge has been deleted from this version.

Section 108(5)(a) would change the effective date of a change in the requirement for a taxpayer to pay the tax before they can appeal. The new date would take effect June 30, 2021. The requirement to pay the tax before a taxpayer could appeal would have been effective at the effective date of the bill.

Section 108(5)(a)(iv)(A) would allow a taxpayer to appeal without paying the tax unless the tax amount exceeded \$100,000. The amount in the original bill was \$500,000.

Sec.228 states that the board of tax appeals would be abolished. In the original bill, the board of tax appeals would have been transferred to the tax court.

Original bill:

This bill would add a new chapter to RCW Title 2.

Section 102 would establish a new tax court in Washington, which would be an independent court of record with statewide jurisdiction. The tax court would consist of one judge selected from each district of the court of appeals and such commissioners as are appointed by the tax court.

Section 104 would establish two departments of the court - a main department and a commissioner department of the court. (1)(a) The main department would consist of three judges. Each judge would hear cases as an individual, except for those cases that must be heard by a three-judge panel. (c) would have the three-judge panels hear both original tax appeal cases and appeals of decisions made by individual tax court judges. Three-judge panels would also hear appeals from a decision of the superior court and from the commissioners. (e) States that every cause submitted to the main department of the tax court must be decided within six months from the submission thereof. The court may extend the six-month period, for good cause, up to three additional months. (2) The commissioner department would be an informal option for appeals and would hear all appeals that are not heard initially by the main department or a three-judge panel.

Section 105 states (1) The tax court must adopt rules for the administration and procedures of the court. (2) The Supreme Court may assign a judge of the tax court to serve as a judge pro tem of the court of appeals. (3) The final decisions of the main department of the tax court must be published. Decisions of a three-judge panel and decisions by a single judge of the main department that are not reviewed by a three-judge panel are subject to review by the Supreme Court. (5) The final decisions of the commissioner department must be in writing and available for electronic research but are not citable as published opinions. The commissioners' decisions would be appealable only to the main department of the tax court.

Section 108 (1) states that all proceedings before the tax court, except as provided below, would be original proceedings and tried de novo without a jury. (4) states that the tax court would have concurrent original jurisdiction with the superior court in hearing appeals and exclusive jurisdiction of superior court decisions to decide tax appeals. (5)(b)(iv) states that every year, the AOC must review the dollar threshold for certain types of appeals and adjust the amount for inflation.

Section 109 would set the filing fee for appeals to the main department at \$250. The filing fee for appeals to the commissioner department would be \$50.

Section 228 would abolish the Board of Tax Appeals. All classified employees of the BTA would be assigned to the tax court. All cases of the BTA would be transferred to the tax court.

Section 302 states that the act would take effect on January 1, 2018. The BTA would be abolished July 1, 2019. The first election of the judges would be in the general election in 2018. Beginning February 1, 2019, judges would be able to take actions necessary to help with the establishment of the tax court.

## II. B - Cash Receipts Impact

Section 109 would set the filing fee for appeals to the main department at \$250. The filing fee for appeals to the commissioner department would be \$50.

Using the Board of Tax Appeals fiscal year 2016 numbers for formal and informal appeals and assuming that formal appeals would be filed with the main division of the tax court and the informal appeals would be filed with the commissioner department, the following calculations are used to estimate potential revenue.

28 formal tax appeals in fiscal year 2016 X \$250 = \$7,000  
830 informal tax appeals in fiscal year 2016 X \$50 = \$41,500

## II. C - Expenditures

This analysis estimate represents the gross cost of the new court and does not account for any savings attained or appropriations transferred from the abolishment of the board of tax appeals. In addition, the numbers in the grid do NOT reflect any potential costs associated with either modification or implementation of a case management system.

Section 102 would change the number of judges in the proposed new tax court from one per district to one per division of the court of appeals. There are three divisions therefore it is assumed that there would be three elected judges. Section 106(2) states that the tax court judges would receive the same compensation as the court of appeals judges authorized in RCW 2.06. Their current salary is \$174,244 per year and estimated benefits are \$48,312 for a total of \$222,556 per year per judge. The total annual salary and benefit cost for three new judges would be \$667,668. Additional travel costs must be considered because some appeals must be heard by a three judge panel which implies that two judges would be required to travel to the court where the appeal is heard. An allowance of \$1,000 per month per judge for travel would be \$36,000 annually.

Each judge with the court of appeals has a judicial administrative assistant and two law clerks. The assumption is that each judge with the tax court would also require the same staff. The current court of appeals judicial administrative assistant annual salary is \$58,548 and benefits are \$22,169 for a total of \$80,717 per assistant. The estimated annual cost for three judicial administrative assistants is \$242,151. The current court of appeals law clerk annual salary is \$50,496 and benefits are \$20,653 for a total of \$71,149 for each law clerk. The estimated annual cost for six law clerks is \$426,894.

The current court of appeals commissioner annual salary is \$126,792 and benefits are \$35,020 for a total annual cost of \$161,812. The assumption is that there would be at least one commissioner per judge so the total annual cost for three commissioners is \$485,436.

Section 105 (3) would be changed to state that all decisions by the main department would be precedential until reversed, modified, or overruled by the supreme court or a three-judge panel of the tax court. It is assumed that the reporter of decisions at the supreme court would edit and publish the decisions, similar to what the office does for the court of appeal opinions. It is estimated that this would increase the workload for the report of decision's office by 5%. This will be done within existing resources.

The bill is silent on where the tax court would be located. For the purposes of this note, it is assumed there will be a court in each division. Therefore, the cost for rent, utilities and parking for three courts must be considered. It is assumed that one court will be in Seattle, another in Spokane and the third in Tacoma. The space currently used by the board of tax appeals is 4,400 feet and has space for the board and court room. For purposes of this analysis, it is assumed each facility should be 5,000 square feet. LoopNet.com was used to calculate the average cost per square foot. The cost to lease office space in Seattle (does not include parking) is \$27.81 per square foot for an annual cost of \$139,050. The cost to lease office space in Spokane (does no include parking) is \$15.46 per square foot for an annual cost of \$77,300. The cost to lease office space in Tacoma (does not include parking) is \$15.29 per square foot for an annual cost of \$76,450.

In addition to the above FTEs, the tax court will require a court administrator, receptionist, court reporter and case manager. The current court of appeals court administrator annual salary is \$124,620 and benefits are \$34,963 for a total annual cost of \$159,583. The assumption is that only one court administrator would be needed for the three judges. The current salary for a receptionist is \$38,544

and benefits are \$18,330 for a total annual cost of \$56,874. The total annual cost for three receptionists is \$170,622. The current salary for a case manager and court reporter is \$53,016 and benefits \$21,056 for a total annual cost per position of \$74,072. The total cost for three case managers and 3 court reporters is \$444,432.

Sec.228 states that the board of tax appeals would be abolished. It is assumed that the board of tax appeals will prepare the negative fiscal impact of the legislation. All cases of the board of tax appeals would be transferred to the tax court.

It is assumed that a portion of the board of tax appeals budget would be transferred to the new tax court and a portion to the Administrative Office of the Courts. It is also assumed that all facility, budget, accounting, payroll, web, desktop and other administrative activities for the tax court would be handled by the Administrative Office of the Courts. Currently, it is estimated that a 0.5 FTE financial analyst 2 and a 0.5 FTE information technology specialist 1 would be needed. The salary for a half time ITS2 position is \$27,063 and the benefits are \$18,614 for total annual cost of \$45,677. The salary for a half time FA2 position is \$27,864 and the benefits are \$18,836 for total annual cost of \$46,700. In addition, based on information from the board of tax appeals, their educational materials consist of a 14th edition of Appraisal of Real Estate. They have hardbound case reports for Washington through 2012. They have no other research materials other than their Lexis subscription. It is assumed updated materials would need to be acquired and that providing training and implementation materials to the court would require one full time educator and could take at least a year to implement, depending on the project. It is assumed the need for this position would be ongoing. The annual salary for a court educator is \$61,884 and benefits are \$23,814 for a total annual cost for salary and benefits of \$85,698. Total FTE for judges, commissioners, judicial administrative assistants, law clerks and support staff is 27 and the annual salary and benefits would total \$2,774,861. Average set up cost per FTE is \$5,000 for an additional cost of \$135,000 ( $\$5,000 \times 27$ ). On-going employee goods and services and travel per FTE is \$2,000. This would add \$54,000 to the cost ( $\$2,000 \times 27$ ).

Based on information from the board of tax appeals, their case management system is antiquated and was programmed just for their agency. While it cannot work with any other system, it can be exported to an Access database. They also note that in case matters, they are not in compliance with most OCIO standards for statewide networks so it is unlikely that they have hardware or software that can be transferred. Because this is a new type of court, the judges would be required to develop and implement court rules and procedures. These would need to be established before it could be determined whether one of the case management systems AOC is currently deploying would work or whether a new system would need to be developed. In addition, the system would need to share data with other court systems. It is assumed that AOC, at a minimum, would have to create information and documentation, including potential on-line materials and manuals for a new system. AOC is unable to quantify the cost for a new or revised case management IT system and for the educational costs associated with it.

Section 302 states that the act would take effect on January 1, 2018. The board of tax appeals would be abolished July 1, 2019. The first election of the judges would be in the general election in 2018 and they would be sworn in during January 2019. Beginning February 1, 2019, judges would be able to take actions necessary to help with the establishment of the tax court. Therefore, the costs associated with the salaries and benefits of the tax court personnel would not begin until January 1, 2019. The cost of salaries and benefits for the 2017-2019 biennium would be for six months. That cost would be \$1,713,831 (see attached spreadsheet). This does not include costs for any case management systems, software or hardware that will be needed.

NOTE: All costs displayed are estimates. Additional staff and other costs may be required.

### Part III: Expenditure Detail

#### III. A - Expenditure By Object or Purpose (State)

<i>State</i>	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years					
Salaries and Wages		1,028,444	1,028,444	4,113,774	4,113,774
Employee Benefits		358,987	358,987	1,435,948	1,435,948
Professional Service Contracts					
Goods and Other Services		308,400	308,400	693,600	693,600
Travel		18,000	18,000	72,000	72,000
Capital Outlays					
Inter Agency/Fund Transfers					
Grants, Benefits & Client Services					
Debt Service					
Interagency Reimbursements					
Intra-Agency Reimbursements					
<b>Total \$</b>		1,713,831	1,713,831	6,315,322	6,315,322

#### III. B - Expenditure By Object or Purpose (County)

<i>County</i>	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years					
Salaries and Benefits					
Capital					
Other					
<b>Total \$</b>					

#### III. C - Expenditure By Object or Purpose (City)

<i>City</i>	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years					
Salaries and Benefits					
Capital					
Other					
<b>Total \$</b>					

### Part IV: Capital Budget Impact

Section 102 Tax Court Support Costs					
	FY 2018	FY 2019	2017-2019	2019-21	2021-23
Court Administrator (1.0 FTE)		79,792	79,792	319,166	319,166
Receptionist (3.0 FTE)		85,311	85,311	341,244	341,244
Case Manager (3.0 FTE)		111,108	111,108	444,432	444,432
Court Reporter (3.0 FTE)		111,108	111,108	444,432	444,432
<b>Total</b>		<b>387,319</b>	<b>387,319</b>	<b>1,549,274</b>	<b>1,549,274</b>

Section 102 Tax Court Judges/Support Costs					
	FY 2018	FY 2019	2017-2019	2019-21	2021-23
Judges (3.0 FTE)		333,834	333,834	1,335,336	1,335,336
Judicial Assistant (3.0 FTE)		121,076	121,076	484,302	484,302
Law Clerks (6.0 FTE)		213,447	213,447	853,788	853,788
<b>Total</b>		<b>668,357</b>	<b>668,357</b>	<b>2,673,426</b>	<b>2,673,426</b>

Section 102 Tax Court Commissioners Costs					
	FY 2018	FY 2019	2017-2019	2019-21	2021-23
Commissioner (3.0 FTE)		242,718	242,718	970,872	970,872
<b>Total</b>		<b>242,718</b>	<b>242,718</b>	<b>970,872</b>	<b>970,872</b>

Section 228 AOC Support					
	FY 2018	FY 2019	2017-2019	2019-21	2021-23
Financial Analyst 2 (.5 FTE)		23,350	23,350	93,400	93,400
Information Technology Specialist 1 (0.5 FTE)		22,839	22,839	91,354	91,354
Court Educator (1.0 FTE)		42,849	42,849	171,396	171,396
<b>Total</b>		<b>89,038</b>	<b>89,038</b>	<b>356,150</b>	<b>356,150</b>

Section 102 Office Space					
	FY 2018	FY 2019	2017-2019	2019-21	2021-23
Office Space for Seattle (does not include parking)		69,525	69,525	278,100	278,100
Office Space for Spokane (does not include parking)		38,650	38,650	154,600	154,600
Office Space for Tacoma (does not include parking)		38,225	38,225	152,900	152,900
<b>Total</b>		<b>146,400</b>	<b>146,400</b>	<b>585,600</b>	<b>585,600</b>

Total All Costs					
	FY 2018	FY 2019	2017-2019	2019-21	2021-23
Total FTE Costs (27.0 FTE)		1,387,431	1,387,431	5,549,722	5,549,722
Standard employee goods/services		27,000	27,000	108,000	108,000
Standard employee equipment		135,000	135,000		
Travel for Judges		18,000	18,000	72,000	72,000
Office space rental		146,400	146,400	585,600	585,600
<b>Total all costs</b>		<b>1,713,831</b>	<b>1,713,831</b>	<b>6,315,322</b>	<b>6,315,322</b>

**NOTE: The cost for any software, hardware or case management system development and implementation are not included in these estimates.**

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5866 P SB S-2265.2	<b>Title:</b> Tax court, creating	<b>Agency:</b> 100-Office of Attorney General
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT	FY 2018	FY 2019	2017-19	2019-21	2021-23
Legal Services Revolving Account-State 405-1				2,357,400	4,017,838
<b>Total \$</b>				2,357,400	4,017,838

### Estimated Expenditures from:

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	0.0	0.0	0.0	8.8	15.4
<b>Account</b>					
Legal Services Revolving Account-State 405-1	0	0	0	2,357,400	4,017,838
<b>Total \$</b>	0	0	0	2,357,400	4,017,838

### 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: Carrie Graf	Phone: 360-786-7708	Date: 03/22/2017
Agency Preparation: Cam Comfort	Phone: (360) 664-9429	Date: 03/27/2017
Agency Approval: Deborah Feinstein	Phone: 360-586-3003	Date: 03/27/2017
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 03/28/2017



## 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 101 is a new section stating legislative findings and intent.

Section 102 is a new section establishing a Tax Court as a court of record with statewide jurisdiction.

Section 103 is a new section defining “court,” “general election,” “judge,” and “rules.”

Section 104 is a new section providing that the Tax Court must have a Main Department and a Commissioner Department. Criteria and requirements for the two departments are provided. The Commissioner Department must make available an informal voluntary and confidential mediation process. Qualifications for Tax Court Commissioners are provided.

Section 105 is a new section addressing Tax Court procedures and review, including that the administration and procedures of the court must be as provided by rules of the court. Decisions of the Main Department are precedential until reversed, modified, or overruled. Decisions of the Commissioner Department may not be cited or relied upon as precedent.

Section 106 is a new section providing required qualifications of Tax Court judges.

Section 107 is a new section addressing the election of Tax Court judges.

Section 108 is a new section setting forth the Tax Court’s jurisdiction. Except as provided, all proceedings before the Tax Court are original, independent proceedings and will be tried without a jury and de novo. As of July 1, 2021, most taxpayers will have the option to have their appeal heard prior to the payment of the taxes asserted to be due by a taxing agency and prior to the posting of any bond.

Section 109 is a new section addressing appeals to the Tax Court.

Section 110 is a new section authorizing the imposition of costs and fees against a party for improper conduct before the Tax Court.

Section 201 amends RCW 2.04.110 to add a reference to “judges of the tax court.”

Section 202 amends RCW 34.05.030 to provide that RCW 34.05.410 through RCW 34.05.598 do not apply to review hearings conducted by the Tax Court, except as provided in Section 104 of this act.

Section 203 amends RCW 34.12.020 to strike a reference to the Board of Tax Appeals (BTA).

Section 204 amends RCW 39.88.060 to strike references to the BTA.

Section 205 amends RCW 42.17A.705 to strike references to the BTA and its Executive Secretary.

Sections 206 through 208 amend statutes to replace references to the BTA with references to the Tax Court.

Section 209 amends RCW 82.32.150 to add the qualification “except as provided in sections 108 and 109 of this act concerning appeals filed with the tax court.”

Section 210 amends RCW 82.32.160 to authorize taxpayers, within 30 days of receiving an original notice of additional taxes, interest, or penalties assessed by the Department of Revenue (DOR), the option to file an appeal with the Tax Court.

Section 211 amends RCW 82.32.170 to authorize taxpayers to petition the DOR for a review of a denial of a refund claim under RCW 82.32.060. Alternatively, taxpayers are provided the option to instead file an appeal with the Tax Court within 30 days of the denial of the requested refund. Exhaustion of administrative remedies is not required.

Section 212 amends RCW 82.32.180 to replace a reference to the BTA with a reference to the Tax Court.

Section 213 amends RCW 82.49.060 to allow taxpayers to file an appeal with the Tax Court within 30 days after the date that DOR notifies the vessel owner of the DOR’s appraised value. References to the BTA are replaced with references to the Tax Court.

Sections 214 through 222 amend various statutes to replace references to BTA with references to the Tax Court.

Section 223 amends RCW 84.56.290 to strike a reference to the BTA.

Sections 224 and 225 amend statutes to replace references to BTA with references to the Tax Court.

Section 226 is a new section authorizing judges for the Tax Court, beginning February 1, 2019, to take any action necessary to enable them to properly exercise the duties, functions, and powers given the Tax Court.

Section 227 amends RCW 84.69.180 to make two non-substantive changes.

Section 228 is a new section abolishing the BTA and transferring its powers to the Tax Court, including all reports, documents, surveys, books, records, files, papers, or written materials in the BTA’s possession, and employees.

Section 229 is a new section repealing 20 statutes in RCW 82.03.

Section 301 is a new section providing that Part I of this act constitutes a new section in RCW Title 2.

Section 302 is a new section providing that if Senate Joint Resolution is validly submitted to and approved and ratified by the voters at the next general election, this act, except for Sections 228 and 229, takes effect January 1, 2018. Sections 228 and 229 take effect July 1, 2019.

## **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.*

Cash receipts are assumed to equal the Legal Service Revolving Account (LSRA) cost estimates. These will be billed through the revolving account to the client agency.

The client agency is DOR. The AGO will bill all clients for legal services rendered.

These cash receipts represent the AGO authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agency's fiscal note. Appropriation authority is necessary in the AGO budget.

## 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.*

In order to provide legal services for DOR, the AGO estimates a workload impact of:

FY 2020 and FY 2021: 5.0 Assistant Attorney General (AAG) and 2.5 Legal Assistant (LA) at a cost of \$1,178,700 (this includes direct litigation costs of \$70,000).

FY 2022 and in each FY thereafter: 8.25 AAG, 1.0 Paralegal (PL) and 4.12 LA at a cost of \$2,008,919 (this includes direct litigation costs of \$82,500).

### AGO Agency Assumptions:

1. Legal services associated with the enactment of this bill will begin on July 1, 2019.
2. The AGO Government Compliance & Enforcement (GCE) division has reviewed this bill and determined it will not significantly decrease the division's workload in representing the Tax Court. This bill will abolish the Board of Tax Appeals (BTA) and create a Tax Court. GCE has rarely been asked for legal advice from BTA and based on this past experience assumes a small reduction of legal services. These savings are nominal and are not included in this request.
3. The AGO Solicitor General's Office (SGO) division has reviewed this bill and determined it will not significantly increase the division's workload. There is potential for a need to represent the Tax Court if it got sued. The potential frequency of this occurrence is small. Legal services for this litigation can be provided within existing resources by the SGO, and the AGO Torts and Complex Litigation divisions. These costs are not included in this request.

### Assumptions for the AGO Revenue & Finance (REV) division Legal Services for DOR:

1. The AGO will bill DOR for legal services based on the enactment of this bill.
2. REV will represent DOR in all appeals before the Tax Court.
3. For FY 2020 and FY 2021, this bill will result in 140 additional appeals over the 2019-2021 biennium requiring representation by REV. For FY 2022 and thereafter, this bill will result in 165 additional appeals annually requiring representation by REV.
4. Tax Court's Commissioner Department:

FY 2020 and 2021

A. The 40 informal appeals per year currently filed in the BTA will be filed in the Commissioner Department. Average amount at issue is \$150,000. These appeals were previously handled by DOR hearing officers before the

BTA. Since these appeals now will be before a court, REV AAGs will represent DOR resulting in additional work for the AGO.

B. REV assumes that approximately 60 active informal appeals will be transferred from the BTA to the Tax Court's Commissioner Department on July 1, 2019. Since these appeals will now be before a court, REV AAGs will represent DOR resulting in additional work for the AGO.

C. Each appeal is assumed to require 18 months to decide.

FY 2022 and each FY thereafter

A. The 40 informal appeals per year currently filed in the BTA will be filed in the Commissioner Department. Average amount at issue is \$150,000. These appeals were previously handled by DOR hearing officers before the BTA. Since these now will be before a court, REV AAGs will represent DOR resulting in additional work for the AGO.

B. We assume this bill generate approximately 110 new appeals annually. This represents 15 percent of taxpayer appeals that currently are filed annually with DOR as administrative claims and which the DOR and the AGO assume will now be appealed directly to the Commissioner Department bypassing DOR's administrative process.

C. Each appeal is assumed to require 18 months to decide.

5. Tax Court's Main Department:

FY 2020 and 2021

A. About 30 formal appeals per year are currently filed in the BTA and will now be filed in the Main Department. These appeals typically involve more complex issues with an average amount at issue of \$950,000. These appeals are currently handled by REV AAGs and would not result in additional work for the AGO.

B. For the 40 appeals filed in the Tax Court's Commissioner Department in FY 2020 and 2021 (#4 above), we assume 30 percent (or 12 appeals) will be appealed to the Main Department with an average amount at issue of \$150,000. Their incremental cost to the AGO is already included in the calculations for #4 above.

C. Each appeal in the Commissioner Department is assumed to require 9 months to decide.

FY 2022 and each FY thereafter

A. About 30 formal appeals per year are currently filed in the BTA and will now be filed in the Main Department. These appeals typically involve more complex issues with an average amount at issue of \$950,000. These appeals are currently handled by REV AAGs and will not result in additional work for the AGO.

B. For the 150 appeals filed in the Tax Court's Commissioner Department in FY 2022 and thereafter (#4 above), 30 percent (or 45 appeals) will be appealed to the Main Department with an average amount at issue of \$150,000. Their incremental cost to the AGO is already included in the calculations for #4 above.

C. REV assumes 15 additional appeals with an average amount at issue of \$950,000 also be filed in the Main

Department because of the elimination of the prepayment requirement. These 15 additional appeals will result in additional work for the AGO.

D. Each appeal in the Main Department is assumed to require 9 months to decide.

6. The average caseload of an AAG representing DOR is approximately 15 appeals at any given time. REV assumes that many of the appeals before the Commissioner Division will be less complicated and that 1.0 AAG will be able to handle a caseload of approximately 20 appeals.

A. For FY 2020 and 2021, this bill will result in the need for an additional 2.0 AAGs to cover the increased workload (40 additional appeals annually), plus associated overhead costs. In addition, this bill will result in the need for an additional 3.0 AAGs to cover the increased workload (60 appeals), plus associated overhead costs, resulting from the transfer of 60 active appeals from the BTA to the Tax Court's Commissioner Department on July 1, 2019.

B. For FY 2022 and thereafter, this bill will result in the need for 8.25 AAGs to cover the increased workload (165 additional appeals annually), plus associated overhead costs. REV further assumes that the increased workload associated with 165 additional appeals will result in the need for an additional 1.0 PL.

7. REV assumes direct litigation costs:

A. FY 2020 and 2021: \$500 per appeal for depositions, transcripts, court costs, and travel. This totals \$70,000 (140 appeals \* \$500).

B. FY 2022 and each FY thereafter: \$500 per appeal for depositions, transcripts, court costs, and travel. This totals \$82,500 (165 appeals \* \$500).

8. We assume the new work associated with the enactment of this bill will commence on July 1, 2019, when the BTA is abolished and its powers and functions are transferred to the Tax Court.

9. Total workload impact for:

FY 2020 and 2021: 5.0 AAG, 2.5 LA.

FY 2022 and in each FY thereafter: 8.25 AAG, 4.12 LA, and 1.0 PL.

Note: Agency administration support FTEs are included in the tables below, using a Management Analyst 5 as a representative classification.

### Part III: Expenditure Detail

#### III. A - Expenditures by Object Or Purpose

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years				8.8	15.4
A-Salaries and Wages				1,424,430	2,475,534
B-Employee Benefits				462,900	809,514
C-Professional Service Contracts				140,000	165,000
E-Goods and Other Services				297,570	510,180
G-Travel				17,500	30,870
J-Capital Outlays				15,000	26,740
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total:</b>	\$0	\$0	\$0	\$2,357,400	\$4,017,838

#### 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 2018	FY 2019	2017-19	2019-21	2021-23
Assistant Attorney General	100,128				5.0	8.3
Legal Assistant III	48,060				2.5	4.1
Management Analyst 5	73,140				1.3	2.1
Paralegal II	63,036					1.0
<b>Total FTE's</b>	284,364				8.8	15.4

#### III. C - Expenditures By Program (optional)

Program	FY 2018	FY 2019	2017-19	2019-21	2021-23
Revenue & Finance Division (REV)				2,357,400	4,017,838
<b>Total \$</b>				2,357,400	4,017,838

### 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.

None.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5866 P SB S-2265.2	<b>Title:</b> Tax court, creating	<b>Agency:</b> 110-Office of Administrative Hearings
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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: Carrie Graf	Phone: 360-786-7708	Date: 03/22/2017
Agency Preparation: Larry Dzieza	Phone: 360-407-2717	Date: 03/22/2017
Agency Approval: Larry Dzieza	Phone: 360-407-2717	Date: 03/22/2017
OFM Review: Regan Hesse	Phone: (360) 902-0650	Date: 03/24/2017

*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.*

*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.*

*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 IV: Capital Budget Impact**



# Department of Revenue Fiscal Note

<b>Bill Number:</b> 5866 P SB S-2265.2	<b>Title:</b> Tax court, creating	<b>Agency:</b> 140-Department of Revenue
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

Account	FY 2018	FY 2019	2017-19	2019-21	2021-23
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax					(81,123,000)
<b>Total \$</b>					(81,123,000)

### Estimated Expenditures from:

Account	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years		0.1	0.1		(2.3)
GF-STATE-State 001-1		11,700	11,700	2,357,400	3,546,200
<b>Total \$</b>		11,700	11,700	2,357,400	3,546,200

### 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: Carrie Graf	Phone: 360-786-7708	Date: 03/22/2017
Agency Preparation: Kim Davis	Phone: 360-534-1508	Date: 03/28/2017
Agency Approval: Don Gutmann	Phone: 360-534-1510	Date: 03/28/2017
OFM Review: Kathy Cody	Phone: (360) 902-9822	Date: 03/28/2017

Request # 5866-4-1

## 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.*

Note: This fiscal note reflects language in draft legislation PSB 5866 (S-2265.2), 2017 Legislative Session.

This bill includes the following changes from SB 5866:

- The taxpayer must pay the disputed amount, post a bond, or provide other adequate security to the Department of Revenue (Department) before the Tax Court hears the appeals where the total amount disputed exceeds \$100,000 unless the taxpayer first obtains a final determination through the Department's administrative process (RCW 82.32.160). In SB 5866, the amount is \$500,000.
- All taxes, penalties, and interest must be paid in full before any action may be instituted in any court until June 30, 2021.
- All decisions by the Main Department of the Tax Court are precedential until reversed, modified, or overruled by the Washington Supreme Court or a three judge panel of the Tax Court.

This bill creates a Tax Court, with a Main Department and a Commissioner Department. It replaces the state Board of Tax Appeals (Board). The Tax Court would have statewide jurisdiction. The Main Department consists of three judges that may individually hear and decide tax appeals, except for proceedings that must be heard by a three-judge panel. The Main Department must decide cases within six to nine months from submission of the case. The Commissioner Department will hear appeals that are not initially heard by the Main Department or a three-judge panel and are informal. The Commissioner Department also would make available an informal mediation process.

A taxpayer who appeals to the Commissioner Department may petition for review of the decision by the Main Department. Decisions of the three-judge panel and decisions by a single judge of the Main Department, that are not reviewed by a three-judge panel, are subject to review by the Washington Supreme Court, which has discretion to accept review.

Generally, proceedings before the Tax Court are original, independent, and tried without a jury and de novo. The Tax Court may hear the following appeals:

- Appeals of a notice of denial of a refund or of a petition or a notice of assessment under RCW 82.34.110, RCW 82.32.050, RCW 82.32.060, RCW 82.32.160, and RCW 82.32.170, or appraisals under RCW 82.49.050;
- Appeals from a county board of equalization pursuant to RCW 84.08.130;
- Appeals by an assessor or landowner from an order made pursuant to RCW 84.08.010 and RCW 84.08.060;
- Appeals by an assessor or owner of an intercounty public utility or private car company from determinations of equalized assessed valuation of property and the apportionment thereof pursuant to chapters 84.12 and 84.16 RCW;
- Appeals by an assessor, landowner, or owner of an intercounty public utility or private car company from determinations of any county indicated ratio for such county pursuant to RCW 84.48.075;
- Appeals from urban redevelopment property tax apportionment district proposals established pursuant to RCW 39.88.060;
- Appeals from interest rates for use in valuing farmland under current use assessment pursuant to RCW 84.34.065;
- Appeals from revisions to stumpage value tables pursuant to RCW 84.33.091;
- Appeals from the denial of a tax exemption application pursuant to RCW 84.36.850;
- Appeals pursuant to RCW 84.40.038(3) and RCW 84.39.020;
- Appeals of refunds denied under Title 83 RCW or Superior Court orders made under chapter 83.100 RCW; and
- Appeals of final decisions of the Superior Court under RCW 82.32.180.

#### REFUNDS:

Taxpayers may file a petition for refund with the Department, and may appeal an adverse decision to the Tax Court within 30 days. Alternatively, taxpayers can file a refund claim directly with the Superior Court of Thurston County (as they can under current law).

## ASSESSMENTS:

Taxpayers who receive an assessment from the Department may file an appeal with the Tax Court within 30 days after the original notice is issued. Under current law, taxpayers must seek internal review of an assessment from the Department before appealing the assessment to the Board.

Except for cases involving property taxes or in certain other specified cases, beginning July 1, 2021, a tax assessment no longer needs to be paid in full before a taxpayer may commence court proceedings to contest all or any part of the assessment. However, in the following instances, the taxpayer must pay the disputed amount, post a bond, or provide other adequate security to the Department before the Tax Court hears the appeal:

- Unpaid taxes assessed under RCW 82.32.145.
- Tax avoidance transactions or arrangements described in RCW 82.32.655(3).
- Appeals of an assessment of taxes upon which the Department imposes an evasion penalty (RCW 82.32.090(7)).
- Appeals where the total amount disputed exceeds \$100,000, unless the taxpayer first obtains a final determination through the Department's administrative review process (RCW 82.32.160).

For appeals where the total disputed amount exceeds \$100,000 and the taxpayer has not obtained a final determination through the Department's administrative review process, the taxpayer must pay in full, post a bond, or otherwise provide adequate security. The \$100,000 threshold must be adjusted in December (starting in 2019) whenever the consumer price index has increased at least 5 percent since the later of January 1, 2018, or the date that the most recent adjustment to the dollar threshold took effect. The adjustment will reflect the cumulative change in the consumer price index, rounded to the nearest \$1,000.

"Consumer price index" means the consumer price index for all urban consumers, all items, for the Seattle-Tacoma-Bremerton metropolitan area as calculated by the United States Bureau of Labor Statistics.

If the associated Senate Joint Resolution related to this bill is enacted by the Legislature in 2017:

- Except for Sections 228 and 229, this bill takes effect January 1, 2018, and
- Section 228 (transfer of the Board to the Tax Court) and Section 229 (repeal of multiple RCWs) take effect July 1, 2019.

## 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

- The associated Senate Joint Resolution to the bill is enacted by the Legislature in 2017.
- The Board is transferred to the new Tax Court July 1, 2019.
- There is no revenue impact prior to July 1, 2021, because all taxes, penalties, and interest must be paid in full before any action may be instituted in any court until June 30, 2021.
- This estimate uses averages so there is no growth factor included.
- Number of taxpayers appealing decisions will not increase.
- Most taxpayers owing over \$100,000 will obtain a final determination through the Department's administrative review process prior to appealing to the Tax Court.
- 15 percent of cases are for taxpayers requesting a refund.
- 85 percent of cases are for taxpayers that have an assessment.
- 5 percent of assessments will be paid prior to appeal to the Tax Court.
- The Department prevails in 60 percent of cases heard.

150 excise tax appeals made to the Tax Court Commissioner Department will not be required to pay the amount disputed.

- 110 new appeals. This assumes 15 percent of taxpayers will appeal to the Commissioner Department, either bypassing the Department's administrative review process or after obtaining a final determination from the Department.
- 40 informal appeals per year currently filed with the Board will be filed in the Commissioner Department.

- Average amount at issue is \$150,000.
- In addition to excise tax appeals, the Commissioner Department will receive 900 property tax appeals per year and estate tax appeals.
- The Commissioner Department will take 18 months to decide a case.

90 excise tax appeals made to the Tax Court Main Department will not be required to pay the amount disputed.

- 45 appeals, or 30 percent of appeals heard by the Commissioner Department, will be appealed to the Main Department, with an average amount at issue of \$150,000.
- 30 formal appeals per year currently filed with the Board will be filed directly with the Main Department. These appeals typically involve more complex issues, with an average amount at issue of \$950,000.
- 15 additional appeals with an average amount at issue of \$950,000 will also be filed in the Main Department.
- The Main Department will take 6 to 9 months to decide a case.

Revenues delay:

- The taxpayer has 60 days after the Tax Court issues its final decision or rules to pay tax, penalties, and interest owed.
- Revenue collections will be delayed from 12 to 32 months.
- Approximately 10 percent of the tax will become uncollectable.

DATA SOURCES

- Department Appeals Data (Fiscal Year 2011 through Fiscal Year 2016)
- Office of Attorney General

REVENUE ESTIMATES

This bill decreases state revenues by an estimated \$58.1 million in Fiscal Year 2022, and by \$23.0 million in Fiscal Year 2023.

The estimate is conservative for the following reasons:

- Does not assume any growth in the number of appeals received.
- Does not include an impact for estates that no longer have to pay the tax and then file a court action.
- Does not include an impact for additional reductions in property tax valuations.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2018 -	\$ 0
FY 2019 -	\$ 0
FY 2020 -	\$ 0
FY 2021 -	\$ 0
FY 2022 -	(\$ 58,140)
FY 2023 -	(\$ 22,983)

Local Government, if applicable (cash basis, \$000): None

**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.*

ASSUMPTIONS:

- 240 taxpayers per year will be affected by this legislation including 150 taxpayer appeals heard by the new Commissioner Department and 90 taxpayer appeals heard by the new Main Department.
- The Department will be represented by the Attorney General's Office (AGO) in all appeals to the new Tax Court departments.

- Beginning in Fiscal Year 2020 the Department will realize cost saving due to 70 appeals directed to the new Tax Court departments rather than the Department's administrative process.

**FIRST YEAR COSTS:**

The Department will not incur costs in Fiscal Year 2018.

**SECOND YEAR COSTS:**

The Department will incur total costs of \$11,700 in Fiscal Year 2019. These costs include:

- Labor Costs - Time and effort equates to 0.1 FTE.
- Amend one administrative rule.

**THIRD YEAR COSTS:**

The Department will incur total costs of \$2,624,200 in Fiscal Year 2020. These costs include:

- Labor Costs - Time and effort equates to reduction of -1.6 FTEs.
- Reduction in staff due to a reduced number of administrative hearings.

Object Costs - \$2,786,600.

- Legal assistance from the Office of the Attorney General equating to 11.25 FTEs Assistant Attorney General, 4.12 FTEs Legal Assistant, 1.0 FTE Paralegal, and direct litigations costs.

**Ongoing Costs:**

The Department will incur total costs of \$2,477,400 in Fiscal Year 2021 and include similar activities described in the third year costs. Time and effort equates to a reduction of -3.0 FTEs.

**Part III: Expenditure Detail**

**III. A - Expenditures by Object Or Purpose**

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years		0.1	0.1		(2.3)
A-Salaries and Wages		7,500	7,500		(318,900)
B-Employee Benefits		2,200	2,200		(95,700)
E-Goods and Other Services		1,300	1,300	2,357,400	3,970,500
J-Capital Outlays		700	700		(9,700)
<b>Total \$</b>		\$11,700	\$11,700	\$2,357,400	\$3,546,200

**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 2018	FY 2019	2017-19	2019-21	2021-23
ADM ASST 3	37,680					(0.1)
ADM ASST 5	49,308		0.0	0.0		
EMS BAND 4	108,926		0.0	0.0		
EMS BAND 5	127,250		0.0	0.0		
HEARINGS SCHEDULER	34,284		0.0	0.0		
SEC SR	32,688					(0.2)
TAX POLICY SP 2	64,620		0.0	0.0		(0.1)
TAX POLICY SP 3	73,140		0.1	0.0		(1.7)
TAX POLICY SP 4	78,732		0.0	0.0		(0.3)
<b>Total FTE's</b>	606,628		0.1	0.1		(2.3)

**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 rule-making process to amend WAC 458-20-100, titled: "Informal administrative reviews." Persons affected by this rule making would include taxpayers protesting the Department's tax decisions, assessments, and valuations.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5866 P SB S-2265.2	<b>Title:</b> Tax court, creating	<b>Agency:</b> 142-Board of Tax Appeals
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**Part I: Estimates**

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Expenditures from:**

	FY 2018	FY 2019	2017-19	2019-21	2021-23
<b>Account</b>					
General Fund-State      001-1	0	0	0	(2,606,000)	(2,606,000)
<b>Total \$</b>	0	0	0	(2,606,000)	(2,606,000)

**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: Carrie Graf	Phone: 360-786-7708	Date: 03/22/2017
Agency Preparation: Paul Bitar	Phone: 360-407-8129	Date: 03/23/2017
Agency Approval: Paul Bitar	Phone: 360-407-8129	Date: 03/23/2017
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 03/23/2017

## 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 228 of this bill abolishes the Board of Tax Appeals effective July 1, 2019.

### 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.

None.

### 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.

BTA reports no impacts for FY18/19 (business as usual), and a negative fiscal impact of \$-1,303,000 per year, beginning in FY20, when BTA is abolished.

## Part III: Expenditure Detail

### III. A - Expenditures by Object Or Purpose

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years					
A-Salaries and Wages				(1,698,054)	(1,698,054)
B-Employee Benefits				(586,288)	(586,288)
C-Professional Service Contracts					
E-Goods and Other Services				(321,658)	(321,658)
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total:</b>	\$0	\$0	\$0	(\$2,606,000)	(\$2,606,000)

## Part IV: Capital Budget Impact

No capitol budget impacts expected.

## 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.

Title 456 WAC, which explains the rules that apply to BTA, would need to be eliminated.



# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

<b>Bill Number:</b> 5866 P SB S-2265.2	<b>Title:</b> Tax court, creating
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## Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

### Legislation Impacts:

- Cities:
- Counties: Moderate costs (between \$50,000 and \$500,000 annually) to move cases from administrative to court venue.
- 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: Additional costs to boards of equalization

### Estimated revenue impacts to:

None

### Estimated expenditure impacts to:

None

## Part III: Preparation and Approval

Fiscal Note Analyst: Renee Martine-Tebow	Phone: 360-725-5045	Date: 03/29/2017
Leg. Committee Contact: Carrie Graf	Phone: 360-786-7708	Date: 03/22/2017
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 03/29/2017
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 03/29/2017

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

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

#### **DIFFERENCES FROM ORIGINAL BILL:**

This bill version would require taxpayers to pay the disputed tax amount as a prerequisite to having their appeal heard by the Tax Court if the taxpayer owes more than \$100,000, instead of \$500,000. It also clarifies the effective date.

#### **SUMMARY OF CURRENT BILL VERSION:**

This bill would create a Tax Court, with a Main Department and a Commissioner Department to replace the state Board of Tax Appeals (BTA). The Tax Court would have statewide jurisdiction. The appellant must pay a \$250 fee for appeals to the Main Department and \$50 fee for appeals to the Commissioner Department.

Sec. 102 establishes the Tax Court will consist of one judge selected from each district of the Court of Appeals and such commissioners are appointed by the Tax Court.

Sec. 105 allows decisions of the Main Department to be appealed to the Supreme Court. Final decisions of the Commissioner Department may be appealed only to the Main Department of the Tax Court

Sec. 107 states at the first state general election after the establishment of the Tax Court, there will be elected the number of judges to the court provided for in Section 102.

Sec. 228 abolishes the BTA. All cases, appropriations, assets, and classified employees of the BTA would be transferred to the Tax Court.

Sec. 229 repeals certain acts or parts of acts.

Sec. 302 is a new section providing that if Senate Joint Resolution is validly submitted to and approved and ratified by the voters at the next general election, this act, except for sections 228 and 229, takes effect January 1, 2018. Sections 228 and 229 take effect July 1, 2019.

### **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.*

This bill would have an indeterminate but moderate (more than \$50,000 and less than \$500,000 annually) cost to local governments related to cases moving from an administrative venue to a court venue.

According to the Board of Tax Appeals (BTA), property tax appeals represent approximately 90 percent of their cases. BTA currently has 3,562 appeals cases, which take an average of 18 months from filing to close. Of those, 219 are formal appeals, 475 are informal assessor appeals, and nine are formal assessor appeals. Generally, formal appeals are the only cases where counties are represented by a prosecutor or contract attorney. The rest are handled by an appraiser or assessor. Moving these cases to the courts would require counties to use prosecutors.

Using the Administrative Office of the Courts' assumption of 28 formal tax appeals (Main Department) and assuming \$1,224 of prosecuting costs (prosecutor costs at \$51 per hour for at least three days per case at eight hours per day), the additional cost to counties would be at least \$34,272 annually. Using the current 219 formal tax appeals and assuming \$1,224 of prosecuting costs, the cost to counties would be \$268,056.

The bill would also require counties to pay \$50 to file in commissioner cases and \$250 in court cases. Assuming the current number of assessor appeals would hold steady, then 475 informal assessor appeals (Commissioner Department) at \$50 per filing would cost counties \$23,750. Assuming nine formal assessor appeals (Main Department) at \$250 per filing, this would cost counties \$2,250.

#### **BOARD OF EQUALIZATION COSTS:**

Under current law, property tax appeals of Board of Equalization (BOE) decisions are heard by the BTA. BOEs may incur additional costs to prepare records for a Tax Court. It is unknown how much additional effort this would require. According to the BTA, it can spend up to three weeks preparing BOE records for one case in Superior Court.

Currently, counties are able to send BOE records to the BTA using Microsoft OneDrive, rather than sending hard copies that require postage. However, Microsoft OneDrive is an internal BTA system. The change from using the BTA to using a Tax Court would increase county costs due to postage costs for each BOE record per docket.

### **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 bill would have no impact on local government revenues, according to the Department of Revenue. It is assumed the outcome of property tax appeals would not change as a result of this bill.

#### **SOURCES:**

Administrative Office of the Courts fiscal note

Board of Tax Appeals

Board of Tax Appeals fiscal note

Department of Revenue fiscal note

Local Government Fiscal Note program "Election Costs" data

Local Government Fiscal Note P SB 5449 (2015)

Washington Association of County Officials