

Multiple Agency Fiscal Note Summary

Bill Number: 2726 HB	Title: Public-private partnerships
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Estimated Cash Receipts

NONE

Estimated Expenditures

Agency Name	2017-19			2019-21			2021-23		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of State Treasurer	Fiscal note not available								
Department of Enterprise Services	.2	88,000	88,000	.3	99,000	99,000	.3	99,000	99,000
Department of Transportation	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total	0.2	\$88,000	\$88,000	0.3	\$99,000	\$99,000	0.3	\$99,000	\$99,000

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

Estimated Capital Budget Impact

Agency Name	2017-19		2019-21		2021-23	
	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Department of Enterprise Services						
Acquisition	0	0	0	0	0	0
Construction	0	0	0	0	0	0
Other	0	81,000	13,000	13,000	13,000	13,000
Total \$	\$0	\$81,000	\$13,000	\$13,000	\$13,000	\$13,000

Prepared by: Jennifer Masterson, OFM	Phone: (360) 902-0579	Date Published: Preliminary 2/ 1/2018
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID: 50734

FNS029 Multi Agency rollup

Individual State Agency Fiscal Note

Bill Number: 2726 HB	Title: Public-private partnerships	Agency: 179-Department of Enterprise Services
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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
FTE Staff Years	0.0	0.3	0.2	0.3	0.3
Account					
General Fund-State 001-1	0	88,000	88,000	99,000	99,000
Total \$	0	88,000	88,000	99,000	99,000

Estimated Capital Budget Impact:

	2017-19		2019-21		2021-23	
	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Acquisition	\$0.00	0	0	0	0	0
Construction	\$0.00	0	0	0	0	0
Other	\$0.00	81,000	13,000	13,000	13,000	13,000
Total \$	\$0.00	\$81,000	\$13,000	\$13,000	\$13,000	\$13,000

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: Steve Masse	Phone: 360-786-7115	Date: 01/15/2018
Agency Preparation: Ronell Witt	Phone: (360) 407-9321	Date: 01/23/2018
Agency Approval: Ashley Howard	Phone: (360) 407-8159	Date: 01/23/2018
OFM Review: Jennifer Masterson	Phone: (360) 902-0579	Date: 01/30/2018

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 is a new section that authorizes public bodies to enter into public-private agreements; a contract between a public body and a private entity for the development, financing design, construction, operations or maintenance of a public-private facility. This section also defines the request for qualifications and request for proposals procedures to be followed when procuring public-private agreements.

Section 3 is a new section that requires request for proposal include a draft form of agreements. Section 2(2) through 2(3) outlines the provisions that must be addressed in the draft agreements.

Section 9 is a new section that directs the Capital Projects Advisory Review Board (CPARB) to form a public private project subcommittee. The subcommittee would have the responsibility to review applications by public bodies requesting to enter into public-private agreements and make recommendations to CPARB for approval. CPARB is authorized to approve up to four public-private agreements per year.

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.

The requirements of sections 9 will impact the Capital Projects Review Board (CPARB) by creating a subcommittee on reviewing applications and approving up to four projects per year. This bill creates a new body of work that is not currently being done today. This legislation would have fiscal impact.

DES provides staff support for the CPARB, and its committees/subcommittees. For CPARB to comply with the requirements of section 9 of this bill, CPARB will incur both one-time, and on-going costs.

One-time costs to establish the public private partnership (3P) subcommittee. DES assumes it will take two additional meetings, attended by the entire board, to elect eight members to the 3P subcommittee. Meeting costs include:

- 1) Per diem of \$400 per member (nineteen eligible members for a total of \$7,600).
- 2) Advertising for each meeting is \$250.
- 3) Transcription services are \$2,000.
- 4) Meeting room rental is \$300.

Altogether, these costs total \$10,150 per meeting, or \$20,300 for the two meeting required to establish the 3P subcommittee.

In addition to the above meeting costs, DES would also incur the following staff costs to support the subcommittee during its establishment. This effort would temporarily displace current work.

- 1) Approximately 0.10 FTE of WMS Band 3 for policy/agenda coordination, stakeholder outreach, and subject matter expertise

2) Approximately 0.10 FTE of Administrative Assistant 3 for administrative support.

On-going costs to support the 3P subcommittee

These on-going costs will result from regular subcommittee meetings each year, increased staffing costs to DES to support the 3P subcommittee, and an allowance for attorney general costs to mitigate any claims or disputes arising from the subcommittee performing its duties.

DES assumes the 3P subcommittee will meet four times per year. The detailed calculations to estimating the cost per meeting include:

- 1) Per diem of \$400 (eight eligible subcommittee members for a total of \$3,200).
- 2) Advertising for each meeting is \$250.
- 3) Transcription services are \$2,000.
- 4) Meeting room rental is \$300.

On-going meeting costs total \$5,750 per meeting, or \$23,000 for the four regular meetings per year by the 3P subcommittee.

DES would also incur the following on-going staff costs resulting from supporting the 3P subcommittee:

- 1) Approximately 0.10 FTE of WMS Band 3 for policy/agenda coordination, stakeholder outreach, and subject matter expertise
- 2) Approximately 0.10 FTE of Management Analyst 2 for compiling data, analyzing, and reporting on public-private-partnership projects
- 3) Approximately 0.10 FTE of Administrative Assistant 3 for administrative support

DES assumes five hours of Attorney General billings per fiscal year, at a rate of \$165 per hour, to mitigate any claims or disputes arising from the subcommittee performing its on-going duties.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years		0.3	0.2	0.3	0.3
A-Salaries and Wages		33,000	33,000	38,000	38,000
B-Employee Benefits		11,000	11,000	13,000	13,000
C-Professional Service Contracts					
E-Goods and Other Services		16,000	16,000	22,000	22,000
G-Travel		28,000	28,000	26,000	26,000
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$0	\$88,000	\$88,000	\$99,000	\$99,000

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
Administrative Assistant 3	44,400		0.1	0.1	0.1	0.1
Management Analyst 2	55,476		0.1	0.1	0.1	0.1
WMS Band 3	90,000		0.1	0.1	0.1	0.1
Total FTE's	189,876		0.3	0.2	0.3	0.3

Part IV: Capital Budget Impact

The requirements of sections 2 and 3 will impact the contract management services provided by the Department of Enterprise Services (DES) Engineering & Architectural Services (E&AS) program on behalf of client agencies when administering alternative public works. This bill creates a new body of work that is not currently being done today. This legislation would have fiscal impact.

E&AS assumes the following:

- 1) Client agencies will be responsible for the financing requirements, and for mitigating any liability concerns, from entering into public-private agreements.
- 2) Impacts to the services provided by E&AS will consist of both one-time costs to develop new procedures/training/templates and on-going costs related to the administration of public private partnership projects on behalf of E&AS clients.
- 3) For purposes of this fiscal note DES assumes funding for this section from Fund 057.

E&AS estimates the following one-time costs:

- 1) 1 project construction project coordinator 3 for a four month period (.3 FTE)
- 2) 200 hours of Attorney General time

Temporary staff will be needed to develop procedures, training, and templates to comply with the request for qualifications (RFQ) and request for proposal (RFP) requirements directed by section 2 of this bill. Staff will also develop procedures, training, and templates to comply with the requirements directed in section 3 of this bill. Attorney General services will be used to review the procedures and templates to ensure compliance with this bill and to incorporate best practices for risk management in the language of the draft public-private agreement template.

E&AS estimates the following on-going costs:

- 1) On-going Attorney General support for public private agreements. Five hours a year at \$165 per hour.

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: 2726 HB	Title: Public-private partnerships	Agency: 405-Department of Transportation
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

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: Steve Masse	Phone: 360-786-7115	Date: 01/15/2018
Agency Preparation: Anthony Buckley	Phone: 360-7056886	Date: 01/23/2018
Agency Approval: Doug Vaughn	Phone: 306-705-7500	Date: 01/23/2018
OFM Review: Erik Hansen	Phone: 360-902-0423	Date: 01/24/2018

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.

HB 2726 proposes alternative public works contracting processes for public-private partnership (P3) projects, and includes transportation projects. The legislation creates an alternative path for executing a P3 contract that is different than existing governance authorities granted under 47.29 RCW. Transportation projects developed by this alternative process would no longer be subject to the requirements of chapter 47.29 RCW.

The proposed legislation authorizes the Capital Projects Advisory Review Board (CPARB) to establish a process for public entities to procure P3 agreements using the CPARB's alternative public works contracting process (established under Title 39 RCW). CPARB would also have authority to approve or deny construction of a project proposing to utilize a P3 pursued under the proposed legislation.

CPARB is directed to establish a public-private project review subcommittee under its existing Project Review Committee (PRC). The PRC is responsible for reviewing and approving projects for construction using various delivery methods of construction.

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.

The overall expenditure impact for the bill is indeterminate due to the complexity of public-private-partnership (P3) projects and the unknown volume of P3 transportation projects that would result from the bill. Whether projects are proposed by the department or another entity, the department retains the responsibility of reviewing all transportation projects, including procuring needed services, evaluating any proposed P3 structure, and selecting qualified contractors prior to executing a P3 construction contract. The impacts below assume demand for P3 transportation projects would increase by two to three each year.

P3 projects are complex and involve a great deal of time and attention. The department's existing P3 program (Program K) has two FTEs. Program K does not have the capacity to accommodate additional P3 projects for transportation without additional staff and consultant resources with the appropriate expertise. The department would have responsibility for selecting projects, procuring needed services, evaluating any proposed P3 structure, and selecting qualified contractors prior to executing a P3 construction contract. The department will incur costs for staff with expertise in relevant areas to conduct a predevelopment review, and staff time to participate in and oversee procurement and development of projects authorized under the proposed process. There will be consultant costs related to third-party reviews.

Assuming two to three projects per-year, the department has identified the following minimum costs (see table for detail):

- Program K (P3 projects) - One FTE, Administrative Assistant 5 position for additional administrative support to coordinate the development and potential procurement of complex projects

- Program K (P3 projects) - One FTE, Fiscal Analyst 4 position for assisting in preparing necessary financial analysis for proposed projects and reviewing and critique financial analysis prepared by outside bidders.
- Program K (P3 projects)- A half FTE, Contracts Specialist 2 position to assist in negotiating and preparing complex P3 contracts.
- Program K (P3 projects) – Contracts for professional services to supplement program staff, including a P3 advisory firm pool (estimated \$750,000 per year). Firms in the pool would provide on-call advisory services (e.g., legal, technical and financial) to assist the department in evaluating P3 opportunities. If a P3 opportunity is identified, the firm would help in further evaluation and potential execution of the P3 transactions. Projects deemed feasible P3 candidate projects will require additional analysis, proposal development, solicitation of developments, evaluation of P3 proposals, and if approved by the CPARB Subcommittee, assist in execution of a P3 transaction.
- Program U - payments to the Attorney General’s Office, 16 to 20 hours per project, to review potential contracts and agreements.

As part of the request for proposal (RFP) process, the legislation provides for the ability for the department to provide an honorarium to finalists who submit responsive proposals and are not awarded a contract. The amount of potential honorarium payments and the volume of such finalists is unknown.

There would also be some cost for revising the department’s current design-build process to comply with the bill, including changes to manuals and contracts.

Lastly, the legislation provides the option for the department to issue and sell bonds for P3 projects. This would be a new duty for the department, now done by the Office of State Treasurer, and would need additional review for cost impacts.

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.

The department's procurement and contracting rules would need to be reviewed/revised.

HB 2726 FN #18-029 WSDOT - Estimate Cost	Fiscal Year (FY) 19	2019-21 biennium (FY20 and FY21)	Note:
Expenditures by Object or Purpose			
A-Salaries and Wages	152,000	299,000	WSDOT Staff - 2.5 FTEs (Program K)
B-Benefits	71,000	140,000	WSDOT Staff - 2.5 FTEs (Program K)
C-Professional Service Contracts	750,000	1,500,000	Advisory firm pool
E-Goods and Other Services	38,000	22,000	WSDOT Staff - 2.5 FTEs (Program K)
G-Travel	15,000	30,000	WSDOT Staff - 2.5 FTEs (Program K)
J-Capital Outlays	18,000	24,000	WSDOT Staff (Program K)
Total Cost not including AG time and honorarium	1,044,000	2,015,000	
Attorney General Time	See narrative		WSDOT (Program U)
Honorarium Cost per Project	See narrative		

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 2726 HB	Title: Public-private partnerships
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

☒ Cities: Cities electing to utilize new alternative contracting provisions

☒ Counties: Same as above

☒ Special Districts: Same as above

☐ Specific jurisdictions only:

☐ Variance occurs due to:

Part II: Estimates

☐ No fiscal impacts.

☒ Expenditures represent one-time costs: Public notice; public hearing; review committee

☒ Legislation provides local option: Jurisdictions could elect to pursue new alternative contracting provisions

☒ Key variables cannot be estimated with certainty at this time: Dept. of Enterprise Services (DES) application process; total number of proposals submitted to DES; amount of honoraria; size, type and complexity of projects; terms of agreement

Estimated revenue impacts to:

Indeterminate Impact

Estimated expenditure impacts to:

Indeterminate Impact

Part III: Preparation and Approval

Fiscal Note Analyst: Allan Johnson	Phone: 360-725-5033	Date: 01/22/2018
Leg. Committee Contact: Steve Masse	Phone: 360-786-7115	Date: 01/15/2018
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 01/22/2018
OFM Review: Jennifer Masterson	Phone: (360) 902-0579	Date: 01/30/2018

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 allow cities, counties and special districts to develop qualified public facilities using new alternative contracting provisions. These new provisions would allow jurisdictions to enter into public-private partnerships through three potential contracting methods:

- design-build-operate-maintain
- design-build-finance-operate-maintain ?
- design-build-finance.

Projects may be initially proposed by the jurisdiction or an unsolicited proponent. Any local transportation innovation project would be considered a qualified project. Up to four local projects would be allowed to utilize these provisions statewide each year. Selection of these four projects would occur through the Department of Enterprise Services' Capital Projects Advisory Review Board (CPARB).

Jurisdictions pursuing these alternative contracting provisions would be required to:

- make a determination that the project and the use of these provisions is in the public interest
- publish a public notice of these findings
- conduct a public hearing to gather public input on the proposal
- publish a final determination of findings.

Once a jurisdiction elects to pursue these alternative contracting provisions, they would apply to the CPARB for approval.

To utilize the provisions once approved by the CPARB, a local government must establish an evaluation committee to review and select a minimum of four finalists for further consideration. The review committee would rank the finalists and the jurisdiction may enter into negotiations with the highest ranking proposal. If an agreement cannot be reached with the highest ranking proposal, the jurisdiction may pursue negotiations with the next highest ranking submittal. An honorarium may be paid to unselected finalists.

Jurisdictions would be authorized to sell bonds to finance the project. Terms of any lease or concession agreement may not exceed 50 years.

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.

Jurisdictions utilizing the alternative contracting procedures established through this legislation could incur a range of expenditures that would otherwise not occur through standard contracting procedures. These expenditures would be related to:

- Public deliberations to make a determination that the project and the use of these provisions is in the public interest and conduct a public hearing to gather input on the proposal estimated at \$5,000 per proposal (\$1,500 per meeting, \$3,500 per hearing; Local Government Fiscal Note Program Unit Cost Data 2018)
- Public notices of initial and final determination of findings which are estimated at \$120-\$240 per proposal (\$34/100 words x 350-700 words per notice = \$120-\$240; Tacoma Daily Index, Oregon Daily Journal of Commerce)
- Application to the CPARB for approval which will take an indeterminate amount of staff time needed to complete the application.

While a maximum of four jurisdictions will be selected by the CPARB to utilize the new contracting procedures, it is possible that additional proposals will be submitted for consideration. The number of proposals cannot be predicted in advance and therefore the total costs related to initial efforts cannot be estimated and are indeterminate.

Four jurisdictions per year selected by the CPARB will incur expenditures related to:

- Review of proposals by an evaluation committee resulting in costs of up to \$5,600 based upon experiences by Seattle and the University of Washington for similar selection process (7 members x 4 meetings x 4 hours per meeting x \$50/hour compensation per committee member = \$5,600)
- Payment of honorarium to unselected finalists ranging from \$0 to \$2/\$1,000 in project cost based upon data compiled by the American Institute of Architects of Washington.

Costs for jurisdictions selected by the CPARB will vary depending upon the size and complexity of the project. These cannot be predicted in advance and therefore these expenditures are indeterminate.

Data compiled by the Department of Enterprise Services indicates that jurisdictions utilizing these new alternative contracting methods

may face realize some reductions in overall project costs; however, these will vary by project and cannot be estimated in advance.

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.

Jurisdictions entering into a public-private partnership will establish provisions guiding the use of revenues to pay for the lease, concession license, bond payment or other means of project financing. These would vary widely depending upon the type of project and terms of agreement and cannot be estimated in advance. Therefore, revenue impacts are indeterminate.

SOURCES:

City of Seattle

Dept. of Enterprise Services

Joint Legislative Audit and Review Committee

Local Government Fiscal Note Program Unit Cost Data 2018

Municipal Research Services Center

Oregon Daily Journal of Commerce

Tacoma Daily Index

University of Washington