

Multiple Agency Fiscal Note Summary

| | |
|-----------------------------|-----------------------------|
| Bill Number: 5376 SB | Title: Consumer data |
|-----------------------------|-----------------------------|

Estimated Cash Receipts

| Agency Name | 2019-21 | | 2021-23 | | 2023-25 | |
|----------------------------------|--|-------|-----------|-------|-----------|-------|
| | GF- State | Total | GF- State | Total | GF- State | Total |
| Consolidated Technology Services | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | |
| Total \$ | 0 | 0 | 0 | 0 | 0 | 0 |

Estimated Operating Expenditures

| Agency Name | 2019-21 | | | 2021-23 | | | 2023-25 | | |
|-------------------------------------|---------------------------|----------|---------|---------|----------|---------|---------|----------|---------|
| | FTEs | GF-State | Total | FTEs | GF-State | Total | FTEs | GF-State | Total |
| Administrative Office of the Courts | Fiscal note not available | | | | | | | | |
| Office of Attorney General | 2.1 | 0 | 550,000 | 2.8 | 0 | 724,000 | 2.8 | 0 | 724,000 |
| Consolidated Technology Services | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Department of Licensing | Fiscal note not available | | | | | | | | |
| SWF Statewide Fiscal Note - OFM | Fiscal note not available | | | | | | | | |
| Total \$ | 2.1 | 0 | 550,000 | 2.8 | 0 | 724,000 | 2.8 | 0 | 724,000 |

| | | | | | | | | | |
|---------------------|---------------------------|--|--|--|--|--|--|--|--|
| Local Gov. Courts * | Fiscal note not available | | | | | | | | |
| Loc School dist-SPI | | | | | | | | | |
| Local Gov. Other ** | | | | | | | | | |
| Local Gov. Total | | | | | | | | | |

Estimated Capital Budget Expenditures

| Agency Name | 2019-21 | | | 2021-23 | | | 2023-25 | | |
|-------------------------------------|---------------------------|-------|-------|---------|-------|-------|---------|-------|-------|
| | FTEs | Bonds | Total | FTEs | Bonds | Total | FTEs | Bonds | Total |
| Administrative Office of the Courts | Fiscal note not available | | | | | | | | |
| Office of Attorney General | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Consolidated Technology Services | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Department of Licensing | Fiscal note not available | | | | | | | | |
| SWF Statewide Fiscal Note - OFM | Fiscal note not available | | | | | | | | |
| Total \$ | 0.0 | 0 | 0 | 0.0 | 0 | 0 | 0.0 | 0 | 0 |

Estimated Capital Budget Breakout

NONE

* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID: 53919

FNS029 Multi Agency rollup

| | | |
|------------------------------------|---------------------------------|---|
| Prepared by: Bryan Way, OFM | Phone: (360) 902-0650 | Date Published: Preliminary 1/30/2019 |
|------------------------------------|---------------------------------|---|

* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note
FNPID: 53919

Individual State Agency Fiscal Note

| | | |
|-----------------------------|-----------------------------|---|
| Bill Number: 5376 SB | Title: Consumer data | Agency: 100-Office of Attorney General |
|-----------------------------|-----------------------------|---|

Part I: Estimates

☐

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

| | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|---|---------|---------|---------|---------|---------|
| FTE Staff Years | 1.4 | 2.8 | 2.1 | 2.8 | 2.8 |
| Account | | | | | |
| Legal Services Revolving Account-State 405-1 | 188,000 | 362,000 | 550,000 | 724,000 | 724,000 |
| Total \$ | 188,000 | 362,000 | 550,000 | 724,000 | 724,000 |

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: Angela Kleis | Phone: 360-786-7469 | Date: 01/17/2019 |
| Agency Preparation: Stacia Hollar | Phone: (360) 664-0865 | Date: 01/23/2019 |
| Agency Approval: Dianna Wilks | Phone: 360-709-6463 | Date: 01/23/2019 |
| OFM Review: Gwen Stamey | Phone: (360) 902-9810 | Date: 01/28/2019 |

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.

Fiscal Impact is \$50,000 or greater per fiscal year in the current biennium or in subsequent biennia.

Section 1 provides that short title of this act is the Washington Privacy Act.

Section 2 sets forth the legislative intent.

Section 3 provides definitions.

Section 4 specifies the businesses covered by the act and excludes state and local governments and specified data.

Section 5 sets forth the responsibility of certain positions within the businesses.

Section 6 establishes consumer rights under the act regarding the distribution of personal data.

Section 7 establishes the requirements for privacy notices by businesses.

Section 8 requires the businesses to conduct and document risk assessments covering the processing of personal data.

Section 9 addresses the use of de-identified data.

Section 10 provides the circumstances under which the terms of the act do not restrict a business's ability to act.

Section 11 provides that the act does not provide a private right action and establishes comparative fault allocation for liability.

Section 12 makes violation of this act a violation of the Consumer Protection Act, RCW 19.86 and authorizes the Attorney General's Office (AGO) to bring action acting in the name of the state, or as parens patriae on behalf of persons residing in the state. This section also creates an appropriated Consumer Privacy Account that may be used only to fund the Office of Privacy and Data Protection.

Section 13 provides this chapter supersedes and preempts laws adopted by local entities regarding this subject.

Section 14 governs requirements for use of facial recognition services.

Section 15 adds a new section to RCW 9.73 regarding use of facial recognition technology by state and local government agencies.

Section 16 amends RCW 43.105.369 to require the Office of Privacy and Data Protection to conduct, and submit to the legislature by September 30, 2023, an analysis on public sector use of facial recognition.

Section 17 provides that sections 3-14 constitute a new chapter in Title 19 RCW.

Section 20 provides an effective date of December 31, 2020.

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.

AGO Consumer Protection activities are funded with General Fund-State dollars. No cash receipt impact. There is no client agency to bill for legal services.

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.

AGO Agency Assumptions:

1. This bill is assumed effective December 31, 2020.
2. This request does not include cost of living salary increases identified in the Governor's proposed 2019-21 budget.
3. The AGO Transportation & Public Construction (TPC) division has reviewed this bill and determined it will not increase or decrease the division's workload in representing WaTech or the Office of Privacy and Data Protection. This bill does not apply to state government. No new legal services are assumed and costs are not included in this request.

Assumptions for the AGO CPR Legal Services:

1. AGO Consumer Protection activities are funded with General Fund-State dollars. No cash receipt impact. There is no client agency to bill for legal services. CPR enforces the Consumer Protection Act with respect to conduct that is made unlawful under RCW 19.86.020, which broadly prohibits unfair or deceptive acts or practices in trade or commerce. CPR focus is on representations and failures to disclose terms and conditions.
2. The AGO does not anticipate legal challenges to the bill once it is passed.
3. CPR assumes up to two investigations per FY, one to result in litigation in FY 2022.
4. There is a smaller scope for potential investigative targets of defendants, but they do not necessarily translate into less work because targets/defendants will be very aggressive in continuing to use sensitive information because of the value of that information. Thus, investigations and/or litigation will not be easy to pursue with only minimal resources.
5. Investigations will take at least 0.5 Assistant Attorney General (AAG) and 0.5 Paralegal (PL) for general work load.
6. Direct litigation costs of \$15,000 are assumed in FY 2020 and in each FY thereafter:

\$2,000 for trial travel costs.

\$12,000 for deposition costs.

\$1,000 for miscellaneous costs to include but not limited to postage, data storage, and reproduction costs,

7. Total workload impact:

FY 2020: 0.50 AAG, 0.25 Legal Assistant (LA-SEA) and 0.50 PL at a cost of \$188,000 (this includes direct litigation costs of \$15,000).

FY 2021 and in each FY thereafter: 1.0 AAG, 0.5 LA-SEA and 1.0 PL at a cost of \$362,000 (this includes direct litigation costs of \$15,000).

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 - Operating Budget Expenditures

| Account | Account Title | Type | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|----------|-------------------------------------|-------|---------|---------|---------|---------|---------|
| 405-1 | Legal Services Revolving Account | State | 188,000 | 362,000 | 550,000 | 724,000 | 724,000 |
| Total \$ | | | 188,000 | 362,000 | 550,000 | 724,000 | 724,000 |

III. B - Expenditures by Object Or Purpose

| | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|----------------------------------|---------|---------|---------|---------|---------|
| FTE Staff Years | 1.4 | 2.8 | 2.1 | 2.8 | 2.8 |
| A-Salaries and Wages | 109,000 | 218,000 | 327,000 | 436,000 | 436,000 |
| B-Employee Benefits | 38,000 | 77,000 | 115,000 | 154,000 | 154,000 |
| C-Professional Service Contracts | 13,000 | 13,000 | 26,000 | 26,000 | 26,000 |
| E-Goods and Other Services | 22,000 | 46,000 | 68,000 | 92,000 | 92,000 |
| G-Travel | 4,000 | 5,000 | 9,000 | 10,000 | 10,000 |
| J-Capital Outlays | 2,000 | 3,000 | 5,000 | 6,000 | 6,000 |
| Total \$ | 188,000 | 362,000 | 550,000 | 724,000 | 724,000 |

III. C - Operating FTE 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 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|-----------------------------|---------|---------|---------|---------|---------|---------|
| Assistant Attorney General | 103,560 | 0.5 | 1.0 | 0.8 | 1.0 | 1.0 |
| Legal Assistant 3 (Seattle) | 59,144 | 0.3 | 0.5 | 0.4 | 0.5 | 0.5 |
| Management Analyst 5 | 77,614 | 0.1 | 0.3 | 0.2 | 0.3 | 0.3 |
| Paralegal 2 | 65,288 | 0.5 | 1.0 | 0.8 | 1.0 | 1.0 |
| Total FTEs | | 1.4 | 2.8 | 2.1 | 2.8 | 2.8 |

III. D - Expenditures By Program (optional)

| Program | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|------------------------------------|---------|---------|---------|---------|---------|
| Consumer Protection Division (CPR) | 188,000 | 362,000 | 550,000 | 724,000 | 724,000 |
| Total \$ | 188,000 | 362,000 | 550,000 | 724,000 | 724,000 |

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

| | | |
|-----------------------------|-----------------------------|--|
| Bill Number: 5376 SB | Title: Consumer data | Agency: 163-Consolidated Technology Services |
|-----------------------------|-----------------------------|--|

Part I: Estimates

☒ No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost. Please see discussion.

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: Angela Kleis | Phone: 360-786-7469 | Date: 01/17/2019 |
| Agency Preparation: Wendy Armstrong | Phone: 360-407-8977 | Date: 01/25/2019 |
| Agency Approval: Tim Gallivan | Phone: (360) 407-8215 | Date: 01/25/2019 |
| OFM Review: Bryan Way | Phone: (360) 902-0650 | Date: 01/25/2019 |

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.

There is no fiscal impact from this bill to Consolidated Technology Services (WaTech).

The Washington Privacy Act is a comprehensive effort to give control over personal data back to consumers. Based on established legal principles and our state constitution, the Act gives Washington residents tools to determine how their data is used and shared. The Act does not apply to local and state governments, personal data sets regulated by certain federal laws, or employment records. The Act does apply to legal entities that control or process data of more than 100,000 consumers and/or derive 50 percent to gross revenue from the sale of personal information.

Section 12 authorizes the Attorney General's Office (AGO) to bring action on behalf of persons residing in the state under the Consumer Protection Act. This section of the bill also creates an appropriated Consumer Privacy Account that may only be used to fund the Office of Privacy and Data Protection.

This bill will go into effect on Dec. 31, 2020.

II. B - Cash receipts Impact

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

Indeterminate.

The state's chief privacy officer is part of the Office of the Chief Information Officer (OCIO) and is funded by an appropriation from the Consolidated Technology Services Revolving Account (458-1).

Section 12 authorizes the Attorney General's Office (AGO) to bring action on behalf of persons residing in the state, and to assess civil penalty of not more than two thousand five hundred dollars for each unintentional violation or seven thousand five hundred dollars for each intentional violation. This section establishes the consumer privacy account. All receipts for the imposition of civil penalties must be deposited into the consumer privacy account and may be used only to fund the Office of Privacy and Data Protection.

The amount of revenue that may be collected per Section 12 is unknown.

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.

There is no fiscal impact from this bill.

Section 16 Part (8) requires the Office of Privacy and Data Protection to conduct an analysis on the public sector use of facial recognition. A report is due to the appropriate committees of the legislature by September 30, 2023.

The Office of Privacy and Data Protection serves as a central point of contact for state agencies on policy matters involving data privacy and data protection as part of the Central Services Billing Model. It is assumed, WaTech can absorb the costs for this proposed bill in its base budget if the workload of other enacted legislation does not

exceed current staffing levels.

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.

None.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

| | |
|-----------------------------|-----------------------------|
| Bill Number: 5376 SB | Title: Consumer data |
|-----------------------------|-----------------------------|

Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- ☐ Cities:
- ☐ Counties:
- ☐ 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:

Part III: Preparation and Approval

| | | |
|--------------------------------------|-----------------------|------------------|
| Fiscal Note Analyst: Tom Gilmore | Phone: 360-725-5038 | Date: 01/25/2019 |
| Leg. Committee Contact: Angela Kleis | Phone: 360-786-7469 | Date: 01/17/2019 |
| Agency Approval: Alice Zillah | Phone: 360-725-5035 | Date: 01/25/2019 |
| OFM Review: Bryan Way | Phone: (360) 902-0650 | Date: 01/27/2019 |

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 bill would require local governments to receive a court order before utilizing facial recognition services for surveillance.

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 not impact local government expenditures.

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 not impact local government revenues.

SOURCES:

Association of Washington Cities

Washington Association of Sheriffs and Police Chiefs