Multiple Agency Fiscal Note Summary

Bill Number: 5730 SB	**Title:** Comm. property/clean energy

Estimated Cash Receipts

NONE

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 Operating Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Department of Commerce	.3	534,562	534,562	.3	467,062	467,062	.2	43,531	43,531
Total $	**0.3**	**534,562**	**534,562**	**0.3**	**467,062**	**467,062**	**0.2**	**43,531**	**43,531**

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 Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Department of Commerce	.0	0	0	.0	0	0	.0	0	0
Total $	**0.0**	**0**	**0**	**0.0**	**0**	**0**	**0.0**	**0**	**0**

Estimated Capital Budget Breakout

NONE

Prepared by: Gwen Stamey, OFM	**Phone:** (360) 902-9810	**Date Published:** Final 3/ 7/2019

FNPID: 57126

Individual State Agency Fiscal Note

Bill Number: 5730 SB	**Title:** Comm. property/clean energy	**Agency:** 103-Department of Commerce

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.3	0.3	0.3	0.3	0.2
Account					
General Fund-State 001-1	43,531	491,031	534,562	467,062	43,531
Total $	43,531	491,031	534,562	467,062	43,531

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:	Greg Vogel	Phone: 360-786-7413	Date: 01/30/2019
Agency Preparation:	Carolee Sharp	Phone: (360) 725-3118	Date: 02/04/2019
Agency Approval:	Martin McMurry	Phone: 360-725-2710	Date: 02/04/2019
OFM Review:	Gwen Stamey	Phone: (360) 902-9810	Date: 02/07/2019

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.

This bill adds a new chapter to Title 35 RCW which authorizes the establishment of a Commercial Property Assessed Clean Energy and Resiliency (C-PACER) program that jurisdictions can voluntarily implement. If the bill is passed, the Department of Commerce (department) would be required to create and administer a new program and may establish a credit enhancement program.

Section 7(1) establishes a voluntary statewide C-PACER program within the department to administer the approval and municipal recordation of qualified improvements.

Section 7(2) allows governing municipalities to contract with the department or its subcontractor to implement and perform the duties of administering a C-PACER program and establishes responsibilities that the municipality will maintain.

Section 7(3) allows the department to contract with a third party to administer the C-PACER program.

Section 7(4) directs the department to utilize a fair and open solicitation process to select any contracted program administrator.

Section 7(5) directs the department to allocate appropriated funds, to the extent that funding is appropriated specifically for the purposes of this section, to cover start-up costs associated with the voluntary statewide program over the course of the first twenty-four months following the designation of a contracted program administrator until that entity becomes self-sustaining.

Section 7(6) indicates that the department may, subject to available appropriations, establish a loan loss reserve or credit enhancement program to support financing of qualified projects.

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.

Section 7 – Establishing the Commercial Property Assessed Clean Energy and Resiliency Program (C-PACER)

The department assumes that it will take twelve months to develop the competitive process, complete an application process, and execute a contract with the successful contractor to administer the C-PACER program. In addition, the department assumes that staff will continue to monitor, evaluate and ensure programmatic compliance by the contracted program administrator within the intent of this bill, beginning at contract execution and continuing until the program is no longer necessary or viable.

The department assumes that the program administrator will become self-sufficient after two years, and that any additional costs for the contracted program administration will be covered by C-PACER fees. For the purposes of this analysis, the department assumes that the development of the competitive solicitation for a contracted program administrator will begin in July 2019, that the contract with the selected contracted program administrator would be executed by July 2020 and that the contracted program administrator would be self-sufficient by July 2022.

The department estimates that the contracted program administrator costs for program development and start up at $445,000 during the first year and $380,000 during the second year based on an estimate completed by a third party consultant utilizing costs for the development of a similar Commercial Property Assessed Clean Energy program in Colorado (C-PACE).

The department also assumes that a determination regarding the development and funding of a supporting loan loss reserve or credit enhancement program would occur after the development of this program. Therefore, costs are not included in this estimate for that program.

To accomplish this work, the department estimates:

0.3 FTE Commerce Specialist 3 (625 hours) in FY20-24 to develop the competitive process, complete an application process and execute a contract with the successful contractor to administer the C-PACER program as well as monitor, evaluate and ensure programmatic compliance.

Salaries and Benefits
FY20-24: $29,601 per year

Professional Service Contracts
The department estimates $445,000 in FY21 and $380,000 in FY22 for a professional service contract for the contracted program administrator to develop all aspects of the C-PACER program for delivery. This cost is based upon an estimate completed by a third party consultant utilizing costs for development of a similar C-PACE program in Colorado.

FY21: $445,000
FY22: $380,000

Goods and Services, Equipment and Travel
Attorney General costs are estimated at $2,500 in FY21 to review the developed contract between the department and the contracted program administrator. Standard goods and services costs include supplies and materials, employee development and training, central services charges and agency administration. Agency administration costs (e.g., payroll, HR, IT) are funded under a federally approved cost allocation plan.

FY20: $13,930
FY21: $16,430
FY22-FY24: $ 13,930 per year

===========

Total Cost

FY20: $43,531

FY21: $491,031
FY22: $423,531
FY23-24: $43,531 per year

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
001-1	General Fund	State	43,531	491,031	534,562	467,062	43,531
		Total $	43,531	491,031	534,562	467,062	43,531

III. B - Expenditures by Object Or Purpose

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.3	0.3	0.3	0.3	0.2
A-Salaries and Wages	21,603	21,603	43,206	43,206	21,603
B-Employee Benefits	7,998	7,998	15,996	15,996	7,998
C-Professional Service Contracts		445,000	445,000	380,000	
E-Goods and Other Services	13,930	16,430	30,360	27,860	13,930
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-					
Total $	43,531	491,031	534,562	467,062	43,531

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
Agency Administrative (Indirect)	69,552	0.0	0.0	0.0	0.0	0.0
Commerce Specialist 3	72,010	0.3	0.3	0.3	0.3	0.2
Total FTEs		0.3	0.3	0.3	0.3	0.2

Part IV: Capital Budget Impact

NONE

None

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

None

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5730 SB	**Title:** Comm. property/clean energy

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

Legislation Impacts:

- [X] Cities: All cities
- [X] Counties: Same as above
- [X] Special Districts: Same as above
- [ ] Specific jurisdictions only:
- [ ] Variance occurs due to:

Part II: Estimates

- [ ] No fiscal impacts.
- [ ] Expenditures represent one-time costs:
- [X] Legislation provides local option: to establish a C-PACER program
- [X] Key variables cannot be estimated with certainty at this time: Whether a local government would chose to establish a C-PACER program and what the cost of doing so might be

Estimated revenue impacts to:

Indeterminate Impact

Estimated expenditure impacts to:

Indeterminate Impact

Part III: Preparation and Approval

Fiscal Note Analyst: Austin Scharff	Phone: 360-725-3126	Date: 03/07/2019
Leg. Committee Contact: Greg Vogel	Phone: 360-786-7413	Date: 01/30/2019
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 03/07/2019
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 03/07/2019

Part IV: Analysis

A. SUMMARY OF BILL

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

SECTION ONE:
If this legislation were enacted, the governing body of a municipality would be able to establish a commercial property assessed clean energy and resiliency (C-PACER) program.

SECTION THREE:
This section specifies that if a municipality establishes a C-PACER program, it would have to adopt a resolution or ordinance doing so.

SECTION FOUR:
This section states that C-PACER financing for which assessments would be imposed through a C-PACER program may include:
-- The cost of materials and labor necessary for installation or modification of a qualified improvement;
-- Permit fees;
-- Inspection fees;
-- Lender's fees;
-- Program application and administrative fees;
-- Project development and engineering fees;
-- Third-party review fees, including verification fees;
-- Capitalized interest;
-- Interest reserves;
-- Escrow for prepaid property taxes and insurance or any other fees or costs that may be incurred by the property owner incident to the installation, modification, or improvement on a specific pro rata basis.

This section further states that a municipality would be able impose fees to offset costs related to administering the program, including the costs of third party administrators. The fees would be able to be imposed as an application fee paid by the property owner and could be expressed as a set amount, a percentage of the assessment amount, or in any other manner that reflects the just and reasonable costs of administering the assessment to the municipality for its administration of the program or any contracted program administrator. Program fees would not be permitted to exceed the actual costs of the qualified program approval and management incurred by the municipality or any contracted program administrator.

SECTION 5:
This section states that a municipality would be allowed to contract with the governing body of another municipality or taxing district, or another entity, including a country treasurer, to administer and collect the assessments imposed by the municipality as part of the municipality's C-PACER program.

SECTION 6:
Under this legislation, any combination of municipalities may agree to jointly implement and administer a C-PACER program. If any two or more municipalities implement a program jointly, they can hold a single public hearing together. One or more municipalities may contract with a third party to administer a C-PACER program. However, the municipality establishing the program would remain responsible for the enforcement of delinquent assessment or C-PACER financing installment payments.

SECTION 7:
This section states that, subject to available appropriations, the Department of Commerce would establish a voluntary statewide C-PACER program to administer the approval and municipal recordation of qualified improvements. The municipality establishing the program would remain responsible for the enforcement of delinquent assessment or C-PACER financing installment payments. The governing body of a municipality would be able to contract with the Department of Commerce, or its subcontractor, to implement and perform the duties of administering the municipalities C-PACER program.

SECTION 8:
Under this legislation, the governing body of a municipality, or the governing body's designee, would have to prepare a C- PACER program guidebook before establishing a program.

SECTION 9:
This section states that before a municipality would be able to enter into a written contract with a record owner of any eligible property to impose an assessment to repay the C-PACER financing of a qualified C-PACER project, the municipality, or its program administrator, would have to receive written consent from any holder of the lien, mortgage, or security interest in the real property that the property may participate in the program. The same would be required for an eligible property that is subject to affordable housing covenants or

restrictions.

SECTION 10:
This section specifies the professional engineering requirements for a project that would have to be established and verified by a municipality establishing a C-PACER program.

SECTION 12:
This section states that a municipality that authorizes financing through assessments under this chapter must record written notice of each assessment in the real property records of the county in which the property is located. This would have to include:
--The assessment amount;
--The legal description of the eligible property;
--The name of each property owner; and,
--A reference to the assessment provided under this legislation.

SECTION 13:
This section discusses how interest, penalties, and charges accrued or accruing on the assessment would occur under this legislation. The assessment would have to be enforced by the municipality in the same manner that the collection of delinquent real property taxes are enforced by the municipality. Delinquent installments on an assessment would incur interest and penalties in the same manner as delinquent property taxes. A municipality may recover costs and expenses, including attorneys' fees, in a suit to collect a delinquent installment of an assessment in the same manner as in a suit to collect a delinquent property tax.

SECTION 14:
A municipality that establishes a region under this legislation would not be able to make the issuance of a permit, license, or other authorization from the municipality to a person who owns property in the region contingent on the person entering into a written contract to repay the financing of a qualified project through assessments or otherwise compel a person who owns property in the region to enter into a written contract to repay the financing of a qualified project through assessments for a C-PACER program.

SECTION 15:
The members of the governing body of a municipality, employees of a municipality, and board members, executives, employees, and contractors of a third party who enter into a contract with a municipality to provide administrative services for a program are not personally liable as a result of exercising any rights or responsibilities granted under this legislation.

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 indeterminate impact on local government expenditures, because it places no obligations on local governments. If a local government established a C-PACER program, it may incur costs associated with the following:

COSTS ASSOCIATED WITH PASSING AN ORDINANCE:
Local governments that chose to establish an ordinance would have to write and adopt a C-PACER program ordinance. The Local Government Fiscal Note Program's ordinance model estimates the cost of a complex ordinance to be approximately $5,000.

COSTS ASSOCIATED WITH UPDATING BILLING SYSTEMS AND ENTERING INTO CONTRACTS WITH RECORD OWNERS:
Local governments that opt to establish a C-PACER program would need to update their billing systems and enter into contracts with record owners. The costs of this software and these contracts are not known. Enflection LLC assumes that whatever the final costs of the software, local governments could jointly purchase it, bringing the costs of the software down for each jurisdiction down. Whether local governments would chose to do so, and the price of the software if they were to jointly purchase it, is unknown.

COSTS ASSOCIATED WITH ESTABLISHING AND VALIDATING PROFESSIONAL ENGINEERING REQUIREMENTS:
Local governments that opt to establish a C-PACER program would incur costs associated with establishing and validating this legislation's professional engineering standards under section 10. The costs of such work is indeterminate and would vary by jurisdiction based on the going rate of a professional engineer in that jurisdiction.

COSTS ASSOCIATED WITH PROVIDING WRITTEN NOTICES OF EACH ASSESSMENT IN THE REAL PROPERTY RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED:
Local governments would incur an indeterminate cost associated with providing written notices of each assessment in the real property records of the county in which the property is located. These costs of doing so are unknown.

POTENTIAL COSTS ASSOCIATED WITH CONTRACT ENFORCEMENT:

The Local Government Fiscal Note Program assumes all parties would comply with this legislation and local governments would incur no costs associated with enforcing payments on delinquent assessments and C-PACER installment payments.

POTENTIAL COSTS ASSOCIATED WITH OUTSOURCING CONTRACTING RESPONSIBILITIES:
Local governments that chose to outsource contracting responsibilities to other local governments would incur costs associated with establishing inter-governmental contracts between the two parties. The costs of such agreements are not known.

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 indeterminate impact on local government revenues, because it places no obligations on local governments. If a local government established a C-PACER program, it may see revenue increases from application fees. Local governments may also receive revenues to recover costs and expenses, including attorney's fees, in a suit to collect a delinquent installment of an assessment. Revenues associated with fees from the C-PACER program would not be permitted to exceed the actual costs of the qualified program approval and management incurred by the municipality or any contracted program administrator. Revenues from this program are not known as they would be set by local governments based on the actual costs of the program, which are not known.

SOURCES:
Association of Washington Cities
Department of Commerce, Office of Energy
Enflection LLC