

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 1841 HB PL	<b>Title:</b> Crew size on certain trains
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## Estimated Cash Receipts

Agency Name	2019-21		2021-23		2023-25	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of Attorney General	0	207,000	0	66,000	0	66,000
<b>Total \$</b>	<b>0</b>	<b>207,000</b>	<b>0</b>	<b>66,000</b>	<b>0</b>	<b>66,000</b>

## Estimated Operating Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of Attorney General	.7	0	207,000	.2	0	66,000	.2	0	66,000
Utilities and Transportation Commission	2.5	0	939,894	1.7	0	548,278	1.7	0	548,278
<b>Total \$</b>	<b>3.2</b>	<b>0</b>	<b>1,146,894</b>	<b>1.9</b>	<b>0</b>	<b>614,278</b>	<b>1.9</b>	<b>0</b>	<b>614,278</b>

## Estimated Capital Budget Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Utilities and Transportation Commission	.0	0	0	.0	0	0	.0	0	0
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

## Estimated Capital Budget Breakout

<b>Prepared by:</b> Jenna Forty, OFM	<b>Phone:</b> (360) 902-0419	<b>Date Published:</b> Final 3/23/2020
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1841 HB PL	<b>Title:</b> Crew size on certain trains	<b>Agency:</b> 100-Office of Attorney General
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT	FY 2020	FY 2021	2019-21	2021-23	2023-25
Legal Services Revolving Account-State 405-1	32,000	175,000	207,000	66,000	66,000
<b>Total \$</b>	32,000	175,000	207,000	66,000	66,000

### Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.2	1.3	0.7	0.2	0.2
<b>Account</b>					
Legal Services Revolving Account-State 405-1	32,000	175,000	207,000	66,000	66,000
<b>Total \$</b>	32,000	175,000	207,000	66,000	66,000

### 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:	Phone:	Date: 03/12/2020
Agency Preparation: Stacia Hollar	Phone: (360) 664-0865	Date: 03/19/2020
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 03/19/2020
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 03/23/2020

## 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.*

All sections are new to RCW 81.40

Section 1 states legislative intent.

Section 2 provides definitions.

Section 3 requires all trains to contain at least two crew members and exempts Class III railroad carriers operating at less than 25 miles per hour.

Section 4 allows automatic crew member size waivers for certain railroad carriers subject to review by the Utilities & Transportation Commission (UTC).

Section 5 requires the UTC to enforce violations of Section 3 including imposing fines.

Section 6 repeals certain statutory provisions.

Section 7 provides a severance clause.

Section 8 provides that the act shall take effect immediately.

### 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 Services Revolving Account (LSRA) cost estimates. These will be billed through the revolving account to the client agency.

The client agency is the Utilities & Transportation Commission. The Attorney General's Office (AGO) will bill all clients for legal services rendered.

These cash receipts represent the AGO's 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.*

Attorney General's Office (AGO) Agency Assumptions:

1. This bill has an emergency clause and is assumed to be effective immediately.
2. Agency administration support FTEs are included in the tables below, using a Management Analyst 5 as a

representative classification.

Assumptions for the AGO Division's Utilities & Transportation Commission Division Legal Services for the Utilities & Transportation Commission (UTC):

1. The AGO will bill UTC for legal services based on the enactment of this bill.
2. This bill establishes minimum crew size requirements for railroads operating in Washington State as common carriers, subject to certain exemptions and waivers. This bill directs the UTC to enforce the train crew size requirements and establishes penalties for non-compliance. This bill also grants the UTC authority to order a railroad carrier to increase the number of train crewmembers or other employees to address safety, health, security, and environmental issues.
3. Complex rulemaking to adopt rules implementing this statute will require an additional 0.1 Assistant Attorney General (AAG).
4. The UTC has projected a need for an additional .14 FTE for FY 2020. This work is assumed to address the UTC's new authority to order a railroad carrier to increase the number of train crewmembers or other employees to address safety, health, security, and environmental issues, which will increase the number of hearings relative to prior versions of the bill.
5. The bill is assumed to result in litigation regarding potential federal preemption, which would require up to 0.48 AAG in FY 2021 for legal advice, research, and briefing.
6. Beginning in FY 2021, administrative enforcement and complaint hearings will be required necessitating an additional 0.14 AAG per FY.
7. Direct litigation costs are assumed for administrative hearings. These costs are assumed nominal and will be provided with existing resources.
8. Total workload impact:  
FY 2020: 0.14 AAG and 0.07 Legal Assistant (LA) at a cost of \$32,000.  
FY 2021: 0.72 AAG and 0.36 LA) at a cost of \$175,000.  
FY 2022 and in each FY thereafter: 0.14 AAG and 0.07 LA at a cost of \$32,000.

### 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	32,000	175,000	207,000	66,000	66,000
Total \$			32,000	175,000	207,000	66,000	66,000

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

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.2	1.3	0.7	0.2	0.2
A-Salaries and Wages	21,000	113,000	134,000	44,000	44,000
B-Employee Benefits	7,000	39,000	46,000	14,000	14,000
E-Goods and Other Services	4,000	21,000	25,000	8,000	8,000
G-Travel		1,000	1,000		
J-Capital Outlays		1,000	1,000		
<b>Total \$</b>	32,000	175,000	207,000	66,000	66,000

**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	108,156	0.1	0.7	0.4	0.1	0.1
Legal Assistant 3	54,108	0.1	0.4	0.2	0.1	0.1
Management Analyst 5	88,644		0.2	0.1		
<b>Total FTEs</b>		0.2	1.3	0.7	0.2	0.2

**III. D - Expenditures By Program (optional)**

Program	FY 2020	FY 2021	2019-21	2021-23	2023-25
Utilities & Transportation Division (UTC)	32,000	175,000	207,000	66,000	66,000
<b>Total \$</b>	32,000	175,000	207,000	66,000	66,000

**Part IV: Capital Budget Impact****IV. A - Capital Budget Expenditures**

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout***Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods*

NONE

**Part V: New Rule Making Required**

# Individual State Agency Fiscal Note

Revised

<b>Bill Number:</b> 1841 HB PL	<b>Title:</b> Crew size on certain trains	<b>Agency:</b> 215-Utilities and Transportation Commission
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## 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	1.7	3.3	2.5	1.7	1.7
<b>Account</b>					
Public Service Revolving Account-State 111-1	274,139	665,755	939,894	548,278	548,278
<b>Total \$</b>	274,139	665,755	939,894	548,278	548,278

### 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:	Phone:	Date: 03/12/2020
Agency Preparation: Melissa Hamilton	Phone: 360 664-1158	Date: 03/19/2020
Agency Approval: Jon Noski	Phone: 360-664-1209	Date: 03/19/2020
OFM Review: Jenna Forty	Phone: (360) 902-0419	Date: 03/20/2020

## Part II: Narrative Explanation

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

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Section 2 – Definitions section which includes the following components that impact workload or expenditures: "Class I" means a railroad carrier designated as a class I railroad by the United States surface transportation board and its subsidiaries or is owned and operated by entities whose combined total railroad operational ownership and controlling interest meets the United States surface transportation board designation as a class I railroad carrier.

"Other railroad carrier" means a railroad carrier that is not a class I carrier.

Staff Assumption(s): A Class I railroad carrier is defined differently in this legislation than at the federal level. The Utilities and Transportation Commission (Commission) will need to research all Class III railroads in the state to determine ownership, percentages of ownership through investments, corporate officers and board members of each railroad or parent company of the railroad. After ascertaining the list of owners, investors, board members and corporate officers, the Commission would attempt to group those short line railroads that have a common ownership group, investor, board member or corporate officer and collect the total railroad operating revenue. Under this bill, railroads with an economic relationship may collectively be deemed to be a Class I railroad because all of the individual companies will have its annual operating revenue added together, determining a potentially different classification result. For this effort, Commission staff would need to research, conduct an extensive rulemaking and hold multiple workshops.

Section 3 – Requires any person, corporation, company or officer of the court operating any railroad or any part of any railroad, in the state of Washington to operate and manage all trains with crews consisting of no less than two crewmembers.

Class III railroad carriers operating at or below 25 miles per hour are exempt from the two crewmember requirement.

Staff Assumption(s): Staff from the Rail program would need to communicate with all Class III railroads in the state of Washington to request the railroads' updated timetables, slowdowns and operating practices for those railroads claiming an exemption under this provision. This effort would also be part of the extensive rulemaking and workshops.

Section 4 – Grants automatic waivers to "other" railroads from the train crew requirements. States that the Commission may elect to rescind the automatic waiver at its discretion.

Requires the Commission to ensure that railroad carriers supplement trains entering Washington state with the requisite number of train crewmembers at the closest regular station stop or crew change point located in proximity to and adjacent with either side of the state border.

Section 4 also allows the Commission to order railroad carriers to increase the number of railroad employees in areas of increased risk to the public, passengers, railroad employees, or the environment, or on specific trains, routes, or to switch assignments on their road with additional numbers of crewmembers, and may direct the placement of additional crewmembers, if it is determined that such an increase in staffing or the placement of additional crewmembers is necessary to protect the safety, health, and welfare of the public, passengers, or railroad employees, to prevent harm to the environment or address security hazards.

Staff Assumption(s): The Commission would need to inspect trains entering the state at common crew change points or stops. The Operating Practices Inspector, in conjunction with other Rail program staff, will need to request hours of service records from regulated railroads to ensure compliance with the train crew requirement. Because of the broad nature of the language in this section, Rail program staff may also be focused on activities such as rail yard switching operations, etc. This would also be part of the extensive rulemaking and workshops.

Staff assumes there will be litigation over the sections of the bill that may be contrary to federal law.

In addition to train crew sizes, the section also gives the Commission authority to increase the number of railroad employees at the carrier, potentially incorporating other positions of railroad operations (e.g., yardmasters). This would be addressed in the extensive rulemaking and workshops.

hops.

Section 5 – States that the highest priority of the Commission, as it relates to train crew size, is railroad safety. The section also allows for the issuance of fines to railroads violating the train crew size requirements with increased fines allowed in severe cases (i.e. death or serious injury).

Staff Assumption: The Commission’s ability to enforce such broad and sweeping fines will likely be subject to litigation from the railroad industry.

Section 8 – Emergency clause.

Staff Assumption(s): The railroad unions and the Class I railroads have started the collective bargaining process but it is not going to conclude in the immediate future. This means the emergency clause in the bill only acts to increase liability and costs to implement the legislation for the Commission. The Commission is required, as stated in the bill, to enact the train crew size requirements. However, many of the mechanisms and processes needed to implement the bill are not consistent with federal requirements, do not exist at the federal level, or require a substantial amount of time and research to collect the necessary information. There is also the need to educate railroads in the state and assist in determining whether the railroad qualifies for a waiver, or meets the exemption or Class I definition.

## **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.*

No Cash Receipts

## **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.*

Expenditures would be broken out into the following general activity categories with the associated costs, positions and hours included:

Category 1 – Extensive Rulemaking (Sections 2, 3, 4 and 5 of the legislation)

\$256,674 – One-time costs that should be in FY 2021

(Administrative Law Judge – 0.08; Commissioner – 0.04; Director, Transportation Safety – 0.08; Director, Policy – 0.01; Paralegal 2 – 0.04; Policy Advisor – 0.42; Rail Safety Policy Advisor – 0.47; Transportation



Planning Specialist 5 – 0.35; Transportation Engineer 3 – 0.08)  
Includes \$23,000 in Attorney General services (Object E)

Category 2 – Investigations (Section 4)  
\$82,304 Annually  
(Transportation Planning Specialist 5 – 0.24; Transportation Engineer 3 – 0.36)

Category 3 – Review of Waivers (Section 4)  
\$23,125 Annually  
(Administrative Law Judge - 0.02; Director, Transportation Safety - 0.01; Rail Safety Program Advisor - 0.06;  
Transportation Planning Specialist 5 - 0.04; Transportation Planning Specialist 3 - 0.04)

Category 4 – Enforcement of Violations (Sections 3, 4 and 5)  
\$20,334 Annually  
(Administrative Law Judge - 0.02; Transportation Planning Specialist 3 - 0.04; Transportation Engineer 3 - 0.05;  
Director, Transportation Safety - 0.01; Rail Safety Program Advisor - 0.01; Transportation Planning Specialist 5 -  
0.02)

Category 5 – Administrative Hearings  
\$148,376 Annually  
(Administrative Law Judge - 0.10; Director, Transportation Safety - 0.06; Rail Safety Program Advisor - 0.14;  
Transportation Planning Specialist 5 - 0.14; Transportation Engineer 3 - 0.14; Transportation Planning Specialist  
3 - 0.14; Attorney General - 0.14; Policy Advisor - 0.08)  
Includes \$33,000 in Attorney General services (Object E)

Category 6 – Litigation  
\$134,942 in FY 2021  
(Paralegal 2 - 0.05)  
Includes \$119,000 in Attorney General services (Object E)

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2020	FY 2021	2019-21	2021-23	2023-25
111-1	Public Service Revolving Account	State	274,139	665,755	939,894	548,278	548,278
Total \$			274,139	665,755	939,894	548,278	548,278

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

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	1.7	3.3	2.5	1.7	1.7
A-Salaries and Wages	161,886	322,772	484,658	323,772	323,772
B-Employee Benefits	56,662	112,973	169,635	113,324	113,324
C-Professional Service Contracts					
E-Goods and Other Services	55,591	230,010	285,601	111,182	111,182
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>	274,139	665,755	939,894	548,278	548,278

**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
Administrative Law Judge	108,228	0.1	0.2	0.2	0.1	0.1
Commissioner	153,504		0.0	0.0		
Director, Policy	118,188		0.0	0.0		
Director, Trans. Safety	106,992	0.1	0.2	0.1	0.1	0.1
Paralegal 2	69,265		0.1	0.1		
Policy Advisor	112,560	0.1	0.5	0.3	0.1	0.1
Rail Safety Program Advisor	86,460	0.2	0.7	0.5	0.2	0.2
Trans. Engineer 3	88,646	0.6	0.6	0.6	0.6	0.6
Trans. Planning Spec. 3	82,342	0.2	0.2	0.2	0.2	0.2
Trans. Planning Spec. 5	100,314	0.4	0.8	0.6	0.4	0.4
<b>Total FTEs</b>		1.7	3.3	2.6	1.7	1.7

**III. D - Expenditures By Program (optional)**

NONE

**Part IV: Capital Budget Impact****IV. A - Capital Budget Expenditures**

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout***Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods*

NONE

No Capital Budget Impact

**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.*

To implement the provisions of Sections 2, 3, 4, and 5 the Commission will conduct an extensive rulemaking in FY 2021 at an estimated cost of \$256,674.

The extensive rulemaking will entail two day-long workshops, development of draft and proposed rules, and two rounds of stakeholder comments.