

Multiple Agency Fiscal Note Summary

Bill Number: 5776 SB	Title: Review of permit decisions
-----------------------------	--

Estimated Cash Receipts

Agency Name	2003-05		2005-07		2007-09	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of Attorney General	0	161,664	0	161,664	0	161,664
Total \$	0	161,664	0	161,664	0	161,664

Local Gov. Courts *						
Local Gov. Other **						
Local Gov. Total						

Estimated Expenditures

Agency Name	2003-05			2005-07			2007-09		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of Administrator for the Courts	Indeterminate								
Office of Attorney General	.5	0	161,664	.5	0	161,664	.5	0	161,664
Office of Financial Management	.0	0	0	.0	0	0	.0	0	0
Department of Ecology	Fiscal note not available								
Environmental Hearings Office	Fiscal note not available								
Total	0.5	\$0	\$161,664	0.5	\$0	\$161,664	0.5	\$0	\$161,664

Local Gov. Courts *	Indeterminate								
Local Gov. Other **									
Local Gov. Total									

--

Prepared by: Garry Austin, OFM	Phone: 360-902-0564	Date Published: Preliminary 3/ 3/2003
---------------------------------------	-------------------------------	---

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

** See local government fiscal note

Judicial Impact Fiscal Note

Bill Number: 5776 SB	Title: Review of permit decisions	Agency: 055-Office of Administrator for Courts
-----------------------------	--	--

Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

FUND	FY 2004	FY 2005	2003-05	2005-07	2007-09
Counties					
Cities					
Total \$					

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

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: Sheryl Little	Phone: 360-786-7409	Date: 02/17/2003
Agency Preparation: Yvonne Pettus	Phone: (360) 705-5314	Date: 02/18/2003
Agency Approval: Janet McLane	Phone: (360) 705-5305	Date: 02/25/2003
OFM Review: Garry Austin	Phone: 360-902-0564	Date: 02/25/2003

Part II: Narrative Explanation

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

The bill provides for the filing of appeals of permit decisions to be in superior court. The appeals process is limited to projects in a distressed area as defined by RCW 43.168.020(3) or within a rural natural resources impact area as defined in RCW 43.160.020. The appeals process authorized in the bill is the exclusive process for review of decisions made by the participating agencies for the qualifying projects.

The bill requires the superior court to set an initial hearing no sooner than 35 days or later than 50 days after the petition is served on the parties. At the initial hearing, the court shall issue a case schedule, setting dates by which certain activities must be completed.

The bill requires superior court to provide an expedited review of the petitions filed under this chapter within 60 days of the date set for submitting the local jurisdiction's record.

The superior court, without a jury, shall review the record and may allow supplemental evidence. The court may affirm or reverse any or all permit decisions under review or remand the decision for modification or further proceedings involving the permit agencies.

II. B - Cash Receipts Impact

II. C - Expenditures

The bill states, section 3, that the appeals process in the superior court is the exclusive process for review of the decisions made by the participating permit agencies for qualifying projects. In section 13, however, the bill states that "when all of the permit decisions were made by quasi-judicial bodies or officers who made factual determinations...judicial review of the factual issues shall be confined to the record". It is not clear from this section that all permit decisions are made by quasi-judicial bodies, who these bodies might be, and if a quasi-judicial body does not make the factual determination then is the appeal still made to the superior court. It is assumed that most of the permit decisions are not made by quai-judicial bodies and therefore the cases would proceed in superior court de novo.

The bill requires the superior court to set an initial hearing no sooner than 35 days or later than 50 days after the petition is served on the parties. At the initial hearing, the court shall issue a case schedule, setting dates by which certain activities must be completed. The bill requires superior court to provide an expedited review of the petitions filed under this chapter within 60 days of the date set for submitting the local jurisdiction's record. These timeframes may be difficult for supeiror courts to meet given the priority and volume of criminal cases that are required to be processed.

It is estimated that the initial hearing will require one hour of court time. Based on the assumption that these cases would include more than just a review of the record, it is estimated the hearings could take between two weeks to two months to resolve. At an average of one month of hearing time for these cases, this would require about 132 additional hours of judicial time per case. This would require one additional superior court judge for every 8.5 cases that might be filed. The county cost for each additional judge, staff and administrative costs would be \$1,108,213 for the first year, including capital costs and \$656,443 for subsequent years. The state cost for each additional judge would be \$78,800 annually.

There is no information available regarding the number of cases that might be filed therefore it is not possible to determine the impact.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

Individual State Agency Fiscal Note

Bill Number: 5776 SB	Title: Review of permit decisions	Agency: 100-Office of Attorney General
-----------------------------	--	---

Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

FUND	FY 2004	FY 2005	2003-05	2005-07	2007-09
Legal Services Revolving Account-State 405-1	80,832	80,832	161,664	161,664	161,664
Total \$	80,832	80,832	161,664	161,664	161,664

Estimated Expenditures from:

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	0.5	0.5	0.5	0.5	0.5
Fund					
Legal Services Revolving Account-State 405-1	80,832	80,832	161,664	161,664	161,664
Total \$	80,832	80,832	161,664	161,664	161,664

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: Sheryl Little	Phone: 360-786-7409	Date: 02/17/2003
Agency Preparation: Linda Moran	Phone: 360 753-2619	Date: 02/24/2003
Agency Approval: Steve Nielson	Phone: 360-753-2516	Date: 02/24/2003
OFM Review: Robin Campbell	Phone: 360-902-0575	Date: 02/24/2003

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 seeks to change the current review process for permit decisions made by agencies. It eliminates the review by the environmental quasi judicial boards that operate under the Administrative Procedures Act (RCW 34.05) that issue decisions that can be appealed to superior courts. Under current law, the administrative board makes a record after an administrative hearing and the superior court reviews that record. This bill contemplates that an agency decision will be "appealed" to superior courts. The superior court case would in effect be a "trial" where the record would be established and a decision about whether the agency decision was correct would be rendered. Any appeal of a superior court decision would be made to the Courts of Appeal. This bill appears to affect Ecology, the Environmental Hearings Office (which is comprised of boards like the Shoreline Hearings Board and the Pollution Control Hearings Board, the Forest Practices Appeals Board) DNR, and Fish and Wildlife.

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.

It is assumed that the client agencies will be billed and that they will pay.

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 bill does not specifically define what permit cases are governed. The bill intends superior court review of agency decisions rather than quasi judicial administrative agency review to be the exclusive means of review of agency decisions. This means this bill supercedes the authority of the Environmental Hearings Office. The AGO currently represents agencies such as Ecology, Fish and Wildlife, and Natural Resources before the Environmental Hearings office handling hundreds of cases a year that would now move to superior court for hearings. The fiscal resources currently needed to support this work would move with the work but this bill may create an additional fiscal impact with the work transferring to superior court. Historically, administrative tribunals have been less costly when handling administrative hearing work so additional FTE may be needed to address the work in superior court because additional days to hear cases and travel might be necessary. Also, as is common with new statutory processes, there may be some litigation to clarify and sort out the issues of first impression for implementing this new law. We estimate between .25 FTE and .50 FTE attorney FTE may be needed to implement this bill.

Note: Overhead is included in Goods/Services

Costs for .25 FTE would be 40,416.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	0.5	0.5	0.5	0.5	0.5
A-Salaries and Wages	37,200	37,200	74,400	74,400	74,400
B-Employee Benefits	8,184	8,184	16,368	16,368	16,368
C-Personal Service Contracts					
E-Goods and Services	25,824	25,824	51,648	51,648	51,648
G-Travel	9,624	9,624	19,248	19,248	19,248
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
Total:	\$80,832	\$80,832	\$161,664	\$161,664	\$161,664

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 2004	FY 2005	2003-05	2005-07	2007-09
Attorney	74,400	0.5	0.5	0.5	0.5	0.5
Total FTE's		0.5	0.5	0.5	0.5	0.5

Part IV: 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.

Individual State Agency Fiscal Note

Bill Number: 5776 SB	Title: Review of permit decisions	Agency: 105-Office of Financial Management
-----------------------------	--	---

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: Sheryl Little	Phone: 360-786-7409	Date: 02/17/2003
Agency Preparation: Brad Killman	Phone: 360-902-0617	Date: 02/18/2003
Agency Approval: Aaron Butcher	Phone: 360-902-0406	Date: 02/26/2003
OFM Review: Robin Campbell	Phone: 360-902-0575	Date: 02/26/2003

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.

Additional workload to the Office of Permit Assistance will be minimal. It appears the fiscal impact would be on the permitting agency and the Attorney General's Office relating to the appeals process outlined in Section 3 of the bill.

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.

Part III: Expenditure Detail

Part IV: 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.

LOCAL GOVERNMENT FISCAL NOTE

Department of Community, Trade and Economic Development

Bill Number: 5776 SB	Title: Review of permit decisions
-----------------------------	--

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: Rashima Gupta	Phone: (360) 725-5036	Date: 02/17/2003
Leg. Committee Contact: Sheryl Little	Phone: 360-786-7409	Date: 02/17/2003
Agency Approval: Louise Deng Davis	Phone: (360) 725-5034	Date: 02/20/2003
OFM Review: Garry Austin	Phone: 360-902-0564	Date: 02/20/2003

Part IV: Analysis

A. SUMMARY OF BILL

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

SB 5776 establishes a consolidated process for appeal and review of certain permit decisions made by the state agencies for certain qualifying projects. A qualifying project is defined as a project located within a distressed area or within a rural natural resources impact area and whose applicant has entered into an agreement with the Office of Permit Assistance for coordination of project permits.

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.

There are no expenditure impacts to local governments from this bill.

SB 5776 reforms the process of appeals of permit decisions made by state agencies. Currently, under Chapter 36.70B, local governments planning under the growth management act participate in an integrated and consolidated project permit process. Provisions in this bill will not impact local governments.

Sources:
Skagit County
Association of Washington Cities

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.

There are no revenue impacts to local governments from this bill.