

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5235 SB	<b>Title:</b> Accessory dwelling units
-----------------------------	--

## Estimated Cash Receipts

NONE

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
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	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Department of Commerce	.1	43,269	43,269	43,269	.0	0	0	0	.0	0	0	0
Environmental and Land Use Hearings Office	.1	40,850	40,850	40,850	.3	70,346	70,346	70,346	.3	70,346	70,346	70,346
<b>Total \$</b>	<b>0.2</b>	<b>84,119</b>	<b>84,119</b>	<b>84,119</b>	<b>0.3</b>	<b>70,346</b>	<b>70,346</b>	<b>70,346</b>	<b>0.3</b>	<b>70,346</b>	<b>70,346</b>	<b>70,346</b>

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
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	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Department of Commerce	.0	0	0	.0	0	0	.0	0	0
Environmental and Land Use Hearings Office	.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>

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
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 Breakout

<b>Prepared by:</b> Gwen Stamey, OFM	<b>Phone:</b> (360) 790-1166	<b>Date Published:</b> Final
--------------------------------------	---------------------------------	---------------------------------

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5235 SB	<b>Title:</b> Accessory dwelling units	<b>Agency:</b> 103-Department of Commerce
-----------------------------	--	---

## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1	0.1	0.1	0.0	0.0
<b>Account</b>					
General Fund-State 001-1	21,372	21,897	43,269	0	0
<b>Total \$</b>	21,372	21,897	43,269	0	0

### 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: Maggie Douglas	Phone: 3607867279	Date: 01/15/2023
Agency Preparation: Buck Lucas	Phone: 360-725-3180	Date: 01/19/2023
Agency Approval: Jason Davidson	Phone: 360-725-5080	Date: 01/19/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 01/23/2023

## Part II: Narrative Explanation

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

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

Section 3 amends RCW 36.70A.696, addressing definitions, adding that an attached accessory dwelling unit must have a substantial portion of footprint within the other housing unit, and must share structural elements with the other unit.

Section 4 amends RCW 36.70A.697 adding counties to the requirement that cities and counties must adopt accessory dwelling units requirement for off-street parking after the next comprehensive plan update after July 1, 2021.

Section 5 amends RCW 36.70A.698 preventing cities and counties from prohibiting accessory dwelling units on residentially zoned lots within urban growth areas. The section outlines further restrictions on cities and counties when regulating accessory dwelling units, and outlines when regulations may be applied.

Section 6 adds a new section to RCW 36.70A creating a new provision that allows for fee waivers and other incentives by cities and counties for development and constructions of accessory dwelling units.

Section 7 adds a new section to RCW 36.70A that prohibits restrictive covenants or deed restriction, created after the effective date of this act, and protects cities and counties from civil liability.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

Agency assumptions:

The department will update it's guidance for cities and counties through rulemaking.

Sections 1-7:

0.1 FTE Management Analyst 4 (209 hours) in FY24-FY25, each year, for update to technical assistance guidance and rulemaking to implement the changes under Section 4 of the bill.

Salary & Benefits:

FY24: \$11,597

FY25: \$11,992

Goods & Services:

Attorney General costs: \$5,000 in FY24-FY25 for 23.8 hours at \$210 per hour each fiscal year, for legal review of draft guidelines adopted by rule for the new Section 4 guidance through rulemaking.

FY24-FY25: \$5,960 per fiscal year

Intra-agency Reimbursements:

FY24: \$3,815

FY25: \$3,945

Note: Standard goods and services costs include supplies and materials, employee development and training, Attorney General costs, central services charges and agency administration. Intra-agency-administration costs (e.g., payroll, HR, IT) are funded under a federally approved cost allocation plan.

=====  
 Total Costs:  
 FY24: \$21,372  
 FY25: \$21,897

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	21,372	21,897	43,269	0	0
<b>Total \$</b>			21,372	21,897	43,269	0	0

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1	0.1	0.1		
A-Salaries and Wages	8,621	8,880	17,501		
B-Employee Benefits	2,976	3,112	6,088		
C-Professional Service Contracts					
E-Goods and Other Services	5,960	5,960	11,920		
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	3,815	3,945	7,760		
9-					
<b>Total \$</b>	21,372	21,897	43,269	0	0

**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 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Services - Indirect	111,168	0.0	0.0	0.0		
Management Analyst 4	86,212	0.1	0.1	0.1		
<b>Total FTEs</b>		0.1	0.1	0.1		0.0

**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**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

**IV. D - Capital FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

The department will need to update its guidance under chapter 365-196 WAC to implement the new requirements under Sections 1-7 of the bill.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5235 SB	<b>Title:</b> Accessory dwelling units	<b>Agency:</b> 468-Environmental and Land Use Hearings Office
-----------------------------	--	---

## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.3	0.1	0.3	0.3
<b>Account</b>					
General Fund-State      001-1	0	40,850	40,850	70,346	70,346
<b>Total \$</b>	0	40,850	40,850	70,346	70,346

### 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: Maggie Douglas	Phone: 3607867279	Date: 01/15/2023
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 01/18/2023
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 01/18/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/22/2023

## Part II: Narrative Explanation

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

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

Section 1. Shows the legislative intent to limit the restrictions imposed on the development and use of accessory dwelling units. (ADUs)

Section 2. Amends 36.70A. Adoption of ordinances, development regulations and amendments to such regulations and other nonproject actions that increase housing capacity, increase housing affordability, and mitigate displacement as required under this subsection (2) and that apply outside of critical areas are not subject to administrative or judicial appeal under chapter 43.21C unless such actions create a probable significant adverse impact on fish habitat.

Any additional demand on public facilities and public services from the new development of redevelopment must be assured.

Any commercial development of redevelopment within a mixed-use area must be principally designed to serve the existing and projected rural population and must meet certain requirements that restrict the size of the footprint of such development.

Section 5. Cities or counties may not prohibit the construction of accessory dwelling units on residentially zoned lots within urban growth areas. Further prohibitions are described with regulating ADU's, including number allowed and requirements for parking.

Section 6. Cities and counties may waive or defer: fees including impact fees, taxes and specific regulations to incentivize the development of construction of ADUs.

Prohibiting cities and counties under the Growth Management Act (GMA) from prohibiting ADUs within urban growth areas (UGAs) will generate appeals to the GMHB. Although Section 2 limits appeals under the state environmental policy act (SEPA), the legislation does not prohibit all appeals.

In addition, the application to homeowners' associations, condominiums and restrictive covenants is likely to generate appeals. Petitioners will want to legally test the bill's new requirements on local land use planning.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

NONE

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

ELUHO estimates 6 GMHB petitions per year resulting from this bill.

ELUHO assumes ELUHO's work on these appeals begins in FY 25, following updates to local jurisdictions' comprehensive plans according to the schedule set forth in the GMA.

ELUHO estimates each appeal resulting from this bill will require approximately 60 hours of Hearing Examiner work to



complete.

60 hours/appeal x 6 appeals = 360 Hearing Examiner hours per FY, ongoing.

Assume new Hearing Examiner FTE: The GMHB will need approximately 0.25 FTE for a Hearing Examiner with demonstrated knowledge in land use planning and law to assist with the new petitions. RCW 43.21B.005(2) authorizes the ELUHO director to appoint such Hearing Examiners to assist the GMHB. The Hearing Examiner FTE will not serve as a member of the Board, but will assist the board in its hearing function, make conclusions of law and findings of fact, and perform other legal duties to assist the Board.

A Hearing Examiner makes \$100,000 per year, plus related benefits estimated at \$32,021 per year, at current benefits rates. The agency needs a 0.25 FTE Hearing Examiner, so the salary would be \$100,000 x 0.25 FTE = \$25,000, per FY, ongoing. Related benefits would total \$8,005, per FY, ongoing.

Goods and services are estimated at \$1,817 per year, ongoing, and include communications, payroll processing, training, and other staff costs. Estimates include some travel at the low cost per diem rates totaling \$349 per year, ongoing. Also included is one time equipment costs for furniture and computers totaling \$5,557 in fiscal year 2025 (FY25).

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	0	40,850	40,850	70,346	70,346
<b>Total \$</b>			0	40,850	40,850	70,346	70,346

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.3	0.1	0.3	0.3
A-Salaries and Wages		25,002	25,002	50,004	50,004
B-Employee Benefits		8,005	8,005	16,010	16,010
C-Professional Service Contracts					
E-Goods and Other Services		1,937	1,937	3,634	3,634
G-Travel		349	349	698	698
J-Capital Outlays		5,557	5,557		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	0	40,850	40,850	70,346	70,346

#### 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 2024	FY 2025	2023-25	2025-27	2027-29
Hearing Examiner	100,000		0.3	0.1	0.3	0.3
<b>Total FTEs</b>			0.3	0.1	0.3	0.3

#### 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**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

**IV. D - Capital FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5235 SB

Title: Accessory dwelling units

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

### Legislation Impacts:

- Cities: Cities needing to amend zoning provisions will experience indeterminate expenditure and revenue impacts
- Counties: Same as above
- Special Districts:
- Specific jurisdictions only:
- Variance occurs due to:

## Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs: Costs to adopt code changes
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time: Number of jurisdictions required to amend code provisions; number of jurisdictions electing not to amend codes; scope of code changes by jurisdiction; change in ADU development rates

### Estimated revenue impacts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

### Estimated expenditure impacts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

## Part III: Preparation and Approval

Fiscal Note Analyst: Chelsea Mickel	Phone: 518-727-3478	Date: 01/18/2023
Leg. Committee Contact: Maggie Douglas	Phone: 3607867279	Date: 01/15/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 01/18/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 01/23/2023

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

*Description of the bill with an emphasis on how it impacts local government.*

This bill adds and amends language to the revised code regarding the construction and regulation of accessory dwelling units.

Section 2 adds language to the revised code regarding the adoption of ordinances, development regulations and amendments made by cities planning under the Growth Management Act (GMA). This section states that cities and counties that plan under the GMA must allow accessory dwelling units (ADUs) to be constructed within urban growth areas (UGAs), and prohibits these jurisdictions from imposing certain ADU regulations, by the time of their next comprehensive plan update. Permitting of such development is contingent upon the ability of existing service providers and public facilities to serve additional demand imposed by the new development or redevelopment.

Under section 5, cities and counties may apply the regulations listed below to ADUs;

- Generally applicable development regulations;
- Public health, building code, safety, and environmental permitting requirements applicable to a principal unit;
- Prohibit ADUs that are not connected to or served by public sewers;
- Prohibit or restrict the construction of ADUs in residential zones with a density of one unit per square acre or less and that are in designated wetlands, protected habitats or hazardous areas.

Section 6 authorizes cities and counties to adopt ordinances, development regulations, or other measures that waive, defer, or reduce fees and taxes or offer other incentives for the construction or development of ADUs that are subject to certain binding commitments or covenants.

Section 7 Prohibits restrictive covenants or deed restrictions created after the effective date of the bill from prohibiting the construction, development or use of ADUs within UGAs.

### **B. SUMMARY OF EXPENDITURE IMPACTS**

*Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.*

This legislation will result in indeterminate expenditure impacts for local governments. Cities and counties that need to make amendments to their code provisions for ADUs to conform to the requirements of this legislation will incur costs. This makes it more likely that jurisdictions will need to adopt a complex ordinance. In addition, increases in permit reviews, changes in permit fees programs and added legal costs are also possible. The number of local governments that will need to make these changes, and the scope of those changes, is not known. As result, the expenditure impacts of this legislation are indeterminate.

#### **DISCUSSION:**

Depending on the variation between a jurisdictions existing code provisions, and the requirements established through this legislation, the cost to bring local zoning and development regulations into conformation may range from a simple ordinance to a complex ordinance with hearing. For discussion purposes, the Local Government Fiscal Note Program's cost models put the cost of adopting a simple ordinance with a public hearing is \$2,958 while adoption of a complex ordinance with hearing is estimated to be approximately \$9,492. It is anticipated that jurisdictions that experience an increase in the development of ADUs would realize an increase in permit applications and associated expenditures to complete reviews of those applications. Many municipal planning departments recover costs for permit review through permit fee revenue although an indeterminate amount of these expenditures would likely be paid through general funds. The change in the number of new ADUs that would be constructed as a result of this legislation cannot be predicted and is indeterminate. Some jurisdictions may elect not to bring their codes into conformance with the requirements of this legislations prior to the applicable deadline. In these jurisdictions, the provision will automatically apply and take effect. It is unclear if these jurisdictions would incur any legal costs based upon codes that do not conform to the required code

measures. Such costs cannot be anticipated in advance and are indeterminate.

### **C. SUMMARY OF REVENUE IMPACTS**

*Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.*

This legislation would result in indeterminate impacts to local government revenue related to provisions authorizing local governments to develop mechanisms to waive, defer or reduce fees in order to incentivize the construction of ADUs. However, jurisdictions are not required to adopt these regulations, as it presents a local option. In jurisdictions expanding the capacity for ADU development, the number of permit applications and resulting fees may increase, but revenues may decrease overall depending upon how much the jurisdiction lowers the price of permit fees. If jurisdictions choose to not adopt regulations to lower permit fees, their revenues would have an indeterminate increase in revenue. The impact will vary by jurisdiction, the fee rates of those jurisdictions and the net increase in ADU development. The magnitude of increase in ADU construction resulting from implementation of these provisions is not known. The impact on local government revenue is therefore indeterminate. In addition, because this legislation may result in an increase in ADU development, this analysis incorporates assumptions regarding permit and development fee revenue. The magnitude of increase in ADU construction resulting from implementation of these provisions is not known. The impact on local government revenue is indeterminate.

#### **DISCUSSION:**

Jurisdictions may experience an increase or decrease in permit revenues from new ADU construction, depending on if and to what extent fees are reduced in order to incentivize construction. In addition, jurisdictions may experience an indeterminate increase in revenue from connection fees and utility capacity charges associated with new ADU development. Jurisdictions that have enacted impact fees may incur a reduction of impact fee revenue if their current rate exceed 50 percent of that charged for a single family unit unless they see a doubling of ADU development. The number of jurisdictions where these impacts would occur is not known. The magnitude of change in impact fee revenue these locations is also not known.

#### **SOURCES**

Association of Washington Cities

Local Government Fiscal Note Program Unit Cost Model (2023)

Local Government Fiscal Note Program, FN ESSB 5648 (2022)

Local Government Fiscal Note Program, FN ESSB 1660 (2022)

Local Government Fiscal Note Program, FN ESSB 5235 (2021)

Local Government Fiscal Note Program, FN ESSB 2570 (2020)

Local Government Fiscal Note Program, FN ESSB 6617 (2020)

Local Government Fiscal Note Program, FN ESSB 1797 (2019)

Municipal Research Services Center

Senate Bill Report, SB 5235, Committee on Local Government, Land Use & Tribal Affairs (2023)

Washington State Association of Counties