

Multiple Agency Fiscal Note Summary

Bill Number: 5047 SB	Title: Voting rights act
-----------------------------	---------------------------------

Estimated Cash Receipts

NONE

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts	No fiscal impact					
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
Administrative Office of the Courts	.0	0	0	0	.0	0	0	0	.0	0	0	0
Office of the Secretary of State	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Office of Attorney General	.0	0	0	0	.0	0	0	0	.0	0	0	0
Total \$	0.0	0	0	0	0.0	0	0	0	0.0	0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	No fiscal impact								
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
Administrative Office of the Courts	.0	0	0	.0	0	0	.0	0	0
Office of the Secretary of State	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	No fiscal impact								
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

NONE

Prepared by: Gaius Horton, OFM	Phone: (360) 819-3112	Date Published: Final
---------------------------------------	---------------------------------	---------------------------------

Judicial Impact Fiscal Note

Bill Number: 5047 SB	Title: Voting rights act	Agency: 055-Administrative Office of the Courts
-----------------------------	---------------------------------	--

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

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 for 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: Sam Brown	Phone: 786-7470	Date: 01/18/2023
Agency Preparation: Angie Wirkkala	Phone: 360-704-5528	Date: 01/18/2023
Agency Approval: Chris Stanley	Phone: 360-357-2406	Date: 01/18/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/24/2023

178,906.00

Request # 052-1

Part II: Narrative Explanation

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

The proposed legislation amends Washington's Voting Rights Act (Chapter 29A.92 RCW) to:

- * Protect the right to cast an effective ballot.
- * Ensure eligible voters are not impaired in registering to vote or voting including having their votes counted.
- * Ensure that voters of race, color, and language minority groups have equitable access to fully participate in the electoral process in registering to vote and voting free from improper dilution or abridgement of voting power.

It is unlikely the bill will significantly increase court filings. Current law allows suits to challenge election methods.

II. B - Cash Receipts Impact

None.

II. C - Expenditures

None.

Part III: Expenditure Detail

III. A - Expenditure By Object or Purpose (State)

NONE

III. B - Expenditure By Object or Purpose (County)

NONE

III. C - Expenditure By Object or Purpose (City)

NONE

III. D - FTE Detail

NONE

III. E - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B1 - Expenditures by Object Or Purpose (State)

NONE

IV. B2 - Expenditures by Object Or Purpose (County)

NONE

IV. B3 - Expenditures by Object Or Purpose (City)

NONE

IV. C - Capital Budget Breakout

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

178,906.00

Form FN (Rev 1/00)

NONE

178,906.00

Form FN (Rev 1/00)

3

Request # 052-1

Bill # 5047 SB

Individual State Agency Fiscal Note

Bill Number: 5047 SB	Title: Voting rights act	Agency: 085-Office of the Secretary of State
-----------------------------	---------------------------------	---

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

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

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: Sam Brown	Phone: 786-7470	Date: 01/18/2023
Agency Preparation: Mike Woods	Phone: (360) 704-5215	Date: 01/19/2023
Agency Approval: Mike Woods	Phone: (360) 704-5215	Date: 01/19/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 01/19/2023

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

Laws and regulations related to the right to vote are to be construed liberally in favor of protecting the right to cast an effective ballot, ensuring voters are not impaired in registering to vote or in voting, and ensuring that voters of race, color, and language minority groups have equitable access to fully participate in the electoral process.

Section 2

Includes “cohesive” in the definitions of the act. Cohesive means that members of a group tend to prefer the same candidates or other electoral choices.

Section 3

States the equal opportunity to elect shall be assessed pragmatically, based on the local election conditions.

Section 7

After a finding of a violation of RCW 29A.92.020 or upon stipulation of the parties, the court may order appropriate remedies including an expansion of the number of elected county commissioners if authorized by Section 12 of this bill. If the court orders a district-based remedy, the court must approve proposed district boundaries prior to their implementation.

Section 8

The political subdivision shall work in good faith to implement a remedy. If the court issues an order under subsection (2), the person or organization who sent the notice may make a demand to the political subdivision for reimbursement of the costs incurred in conducting the research necessary to send the notice.

Section 9

Changes who can file an action under this act, and allows them to make a demand for reimbursement of the costs incurred in conducting the research necessary to send the notices.

Sections 11 and 12

Provides that counties may have more than 3 commissioners in certain circumstances.

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.

It’s possible, as a result on this bill, that counties may choose to change the number of commissioners they have. Changing the number of commissioners would adjust the distribution and share of the election costs. In most cases the state would save money as it’s share would be reduced unless the increase causes a county to go to a 2nd ballot card are larger size of paper. OSOS has no way of forecasting the number of counties that may choose to increase the number of commissioners they have. Therefore the impacts of Section 10 and 11 are indeterminate.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

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

III. B - Expenditures by Object Or Purpose

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

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

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.

Individual State Agency Fiscal Note

Bill Number: 5047 SB	Title: Voting rights act	Agency: 100-Office of Attorney General
-----------------------------	---------------------------------	---

Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

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: Sam Brown	Phone: 786-7470	Date: 01/18/2023
Agency Preparation: Amy Flanigan	Phone: 509-456-3123	Date: 01/19/2023
Agency Approval: Joe Zawislak	Phone: 360-586-3003	Date: 01/19/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 01/19/2023

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.

The Attorney General's Office (AGO) Administrative Division has reviewed this bill and determined it will not significantly increase or decrease the division's workload. New legal services are nominal and costs are not included in this request.

The AGO Education Division (EDU) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Education (Education). The enactment of this bill will not impact the provision of legal services to Education or K-12 client agencies because the EDU division does not provide legal services to school districts or other political subdivisions on Voting Rights Act matters impacted by this bill. New legal services are nominal and costs are not included in this request.

The AGO Civil Rights Division (CRD) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing Washingtonians civil rights. The enactment of this bill will not impact the provision of legal services of CRD because it assigns no enforcement role to the AGO, and any discretionary enforcement of this bill by CRD would be nominal and costs are not included in this request.

The AGO Solicitor General's Office has reviewed this bill and determined it will not significantly increase or decrease the division's workload. New legal services are nominal and costs are not included in this request.

The AGO University of Washington Division has reviewed the bill and determined it will not significantly increase or decrease the division's workload representing The University of Washington. While there is some small chance that specialized legal advice would be necessary regarding confidentiality requirements and data management requirements associated with certain aspects of the relevant data involved in the project, this would likely occur pursuant to a Special Assistant Attorney General (SAAG) agreement, the costs of which would accrue to the client. New legal services are nominal and costs are not included in this request.

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.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

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.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5047 SB

Title: Voting rights act

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

Legislation Impacts:

- Cities: Could incur costs for responding to legal challenges
- Counties: Could incur costs for elections, responding to legal challenges and changing election methods
- Special Districts: Could incur costs for legal challenges and costs to change election methods
- Specific jurisdictions only:
- Variance occurs due to:

Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option: Counties may increase their total elected commissioners.
- Key variables cannot be estimated with certainty at this time: Number of jurisdictions that will make changes; number of lawsuits alleging vote dilution and cost of defense; total costs of implementing court-ordered remedies

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: Kate Fernald	Phone: 564-200-3519	Date: 01/19/2023
Leg. Committee Contact: Sam Brown	Phone: 786-7470	Date: 01/18/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 01/19/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 01/24/2023

Part IV: Analysis

A. SUMMARY OF BILL

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

Sec. 3 (2) amends RCW 29A.92.030 to add that courts are not limited analyzing election results to determine whether there is polarized voting. It also clarifies that courts are not required to consider explanations for why polarized voting might exist when determining if polarized voting exists.

Sec. 3 (4) clarifies no single factor is dispositive or necessary to establish a violation of the Voting Rights Act. The equal opportunity to elect shall be assessed pragmatically, based on local election conditions, and may include crossover district

Sec. 3 (5) adds that members of a protected class, not geographically compact or concentrated to constitute a majority in a proposed or existing district-based election district, shall not prevent a finding of violation of the Voting Rights Act, but it may be a factor in determining a remedy.

Sec. 3 (8) adds a new subsection that clarifies that a class of people protected by the Voting Rights Act may include a cohesive coalition of members from different racial, ethnic or language-minority groups.

Sec. 4 amends RCW 29A.92.040 to allow a political subdivision to increase the number of elected officials on a count commission as authorized by section 12 of this act.

Sec. 5 (1) amends RCW 29A.92.060 to allow an organization whose membership includes or is likely to include a voter who resides in the political subdivision the ability to challenge the political subdivisions electoral system.

Sec. 6 (1): if a political subdivision is notified that a person or organization intends to challenge the political system, and the political subdivision does not respond within 180 days, the legislation would allow 2 new entities to file an action in the political subdivision's county superior court. (Currently, only a voter who resides in the subdivision is allowed to file an action.) The two new entities are: a coalition of members of different racial, ethnic or language-minority groups; or an organization whose membership includes or is likely to include a voter who resides in the political subdivision.

Sec. 7 (1): adds that if a court determines the equal opportunity for protected classes statute (RCW 29A.92.020) is violated, or if the parties stipulate it, then a court may order an appropriate remedy including expanding the number of county commissioners if authorized by section 12 of the proposed legislation.

Sec. 7 (2): adds that if the court orders a district-based remedy, the court must approve the proposed district boundaries and determine that the proposed boundaries will not violate the Voting Rights Act prior to their implementation.

Sec. 8 (5) amends RCW 29A.92.070 would allow a person or organization who sent a notice to challenge an electoral system under WVRA to recover certain costs from the political subdivision up to \$50,000 if the notice caused the political subdivision to adopt a court-approved remedy. The subdivision would be required to pay the reimbursement within 60 days of receiving the demand.

Sec. 9 amends RCW 29A.92.080 to allow an organization whose membership includes or is likely to include a voter who resides in the political subdivision to file a WVRA violation action if the political subdivision has not obtained a court order stating that it has adopted a remedy in compliance with RCW 29A.92.020.

Sec. 10 amends RCW 29A.92.130 to allow a prevailing plaintiff(s) to be awarded all reasonable fees and costs incurred before filing an action. The prevailing plaintiff does not need to achieve relief or favorable judgment if the plaintiff demonstrates they succeeded in "altering the political subdivision's behavior." Altering a political subdivision's behavior includes but is not limited to adopting a new method of electing a governing body, modifying district boundaries, or amending a voting rule or qualification.

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 bill could result in potentially significant indeterminate costs (more than \$1,000,000) for cities, counties, and special districts. Potential costs for county commissioners, lawsuits and trials, costs of previous legal challenges, and remedies are provided below for additional context on the potential expenditure impacts.

COUNTY COMMISSIONERS:

Increasing the number of elected county commissioners will likely result in an increase in expenditures for counties that implement this option. Adding county commissioner positions would result in a net increase in the number of county commissioner positions up for election. For example, if a county had three county commissioner positions, then two more county commissioner positions were added, over a 12 year period, the number of county commissioners up for election would change from 12 to 15 (3 commissioners x 4 election cycles = 12; 5 commissioners x 3 election cycles = 15). Unknown factors such as current election costs and the number of counties that would add commissioner positions precludes the ability to estimate the net change in election related expenditures.

LAWSUITS AND TRIALS:

The number of lawsuits that may be filed and the costs for each suit cannot be predicted and is indeterminate. Likewise, the number of cases that will go to trial, and each case's trial costs will vary on a case-by-case basis and cannot be predicted. However, Washington Association of Prosecuting Attorneys anticipates increased numbers of legal challenges would be well over \$1,000,000. In Yakima and Franklin County, they both had litigation over the past two years related to voting rights. Each county, on its own, spent nearly \$1,000,000 (nearly \$2 million collectively) and neither of the counties went to trial.

REMEDIES:

In addition, this legislation could result in potentially significant indeterminate costs for cities, counties, and special districts due to working with plaintiffs to identify remedies that are acceptable to all parties. Where these remedies are not identified, legal challenges and associated costs could occur. Jurisdictions may incur indeterminate costs to implement remedies (reached either through negotiation or through court order). Remedy impacts of the bill cannot be reasonably estimated given the range of potential costs in individual cases.

Please note that court impacts, including judicial costs, clerk costs, and court fees, are described in AOC's fiscal notes.

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 have an indeterminate impact on county revenue due to varying and unpredictable election costs and the corresponding revenue they would generate.

Counties that increase the number of elected county commissioner positions would likely see an increase in county auditor revenues equal to what county auditors billed counties for their prorated share of election costs.

Election revenue is indeterminate because it is based on election costs, which include both fixed and variable costs related to a specific election. The costs to a jurisdiction vary significantly depending on the number of voters involved, which determines ballot printing costs and return ballot processing costs. Additionally, the cost to a jurisdiction varies significantly depending on how many other jurisdictions share the specific election date. Consequently, these election costs and the corresponding revenue they would generate cannot be estimated but they will influence the magnitude of the revenue impact experienced by county auditors.

SOURCES:

Administrative Office of the Courts
Aguilar v. Yakima County
Chelan County Auditor's Office Glatt v. City of Pasco
King County Elections Local Government Fiscal Note HB 1800 (2018)
Local Government Fiscal Note SB 5597 (2022)
Reyes et al v. Chilton
Washington Association of County Officials
Washington Association of Prosecuting Attorneys
Washington State Association of County Auditors