

Multiple Agency Fiscal Note Summary

Bill Number: 5708 SB	Title: Microenterprise home kitchen
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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 Health	3.6	938,000	938,000	938,000	4.8	1,120,000	1,120,000	1,120,000	3.7	840,000	840,000	840,000
Total \$	3.6	938,000	938,000	938,000	4.8	1,120,000	1,120,000	1,120,000	3.7	840,000	840,000	840,000

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			803,390						
Local Gov. Other	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.								
Local Gov. Total			803,390						

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Department of Health	.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									
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

Prepared by: Breann Boggs, OFM

Phone:
(360) 485-5716

Date Published:
Final 2/16/2023

Individual State Agency Fiscal Note

Bill Number: 5708 SB	Title: Microenterprise home kitchen	Agency: 303-Department of Health
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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	1.2	5.9	3.6	4.8	3.7
Account					
General Fund-State 001-1	193,000	745,000	938,000	1,120,000	840,000
Total \$	193,000	745,000	938,000	1,120,000	840,000

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: 02/07/2023
Agency Preparation: Katie Osete	Phone: 3602363000	Date: 02/08/2023
Agency Approval: Kristin Bettridge	Phone: 3607911657	Date: 02/08/2023
OFM Review: Breann Boggs	Phone: (360) 485-5716	Date: 02/10/2023

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 2(a): The Department of Health (DOH) shall develop and begin a pilot program to allow for Microenterprise Home Kitchens (MHK) operations. Starting July 1, 2024 Local Health Jurisdictions (LHJ's) are authorized to permit up to 100 MHK operations during the first year of the program with the following limits: up to 30 permits for counties with a population over 2,000,000, up to 20 permits for counties with a population between 490,000 and 2,000,000, and up to 10 permits for counties with a population less than 490,000. The limits change to 60, 40, and 20 permits during the second year. The limit changes to 200 permits for all LHJs each year thereafter.

Section 2(3): The State Board of Health (SBOH) shall adopt rules for the authorization, operation, and regulation of microenterprise home kitchen operations by July 1, 2026. SBOH and DOH assume they will work together on required rules.

Section 3(1): DOH must develop a sample permit and form for permit applications.

Section 9: DOH shall compile and maintain, in a manner and format readily accessible by the public, statistics related to the number and distribution of microenterprise home kitchen operations. This section expires June 30, 2026.

Section 10: By July 1, 2026, DOH must submit a report to the legislature reviewing the MHK pilot program and providing recommendations for necessary legislation.

Section 12: This chapter expires December 31, 2028.

Section 13: If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

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.

RULEMAKING

Section 2: SBOH and DOH assume they will work together on the rulemaking to adopt rules for the authorization, operation, and regulation of microenterprise home kitchen operations. Rulemaking is estimated to take 2 years. This is a new model of food service that does not fit within the current food code. SBOH and DOH assume that this will require establishment of a new chapter of rules. The new chapter of rules qualifies as "legislatively significant" under the Administrative Procedures Act, and will require a cost benefit analysis, as well as small business economic impact statement per the Regulatory Fairness Act. SBOH will work in close collaboration with DOH, local health jurisdictions, the hospitality industry, food safety subject matter experts, and diverse communities that may wish to participate in this type of food service model. Rulemaking will also require an environmental justice assessment.

Costs for rulemaking include staff and related costs, board meeting time, travel, and Office of Attorney General support (\$10,000) are:

FY 2024 - 1.2 FTE and \$193,000 (GFS),
FY 2025 - 1.1 FTE and \$185,000 (GFS)

MICROENTERPRISE HOME KITCHENS PILOT PROGRAM

Section 2(1) & 10: MHK Pilot Program: To develop and begin a pilot program to allow for MHK operations, DOH will need four staff from July 1, 2025, through December 31, 2029:

- 1 FTE Environmental Planner 5 to act as project manager. They will handle the requirements of the pilot project, work with legal counsel and ethics board to ensure appropriate safeguards; focus on issues related to zoning, other agency requirements; connection with the Food and Drug Administration (FDA) on food code and safety issues; work with rules team and SBOH to consider language and proper implementation.
- 1 FTE Public Health Advisor 3 to act as food safety specialist. They will handle implementation, inspection and food safety issues; working with local health.
- 1 FTE Management Analyst 4 to act as Community Engagement Specialist. They will handle communications and engagement with unrepresented populations; partner with organizations focused on equity and food security; will work with food industry to reflect business models and impacts.
- .5 FTE Administrative Assistant 3 to help with general admin support for the project; report writing, communications, and webpage maintenance.

Costs for pilot program are:

FY 2025 - 4.8 FTE and \$560,000 (GFS),
FY 2026 - 4.8 FTE and \$560,000 (GFS),
FY 2027 - 4.8 FTE and \$560,000 (GFS),
FY 2028 - 4.8 FTE and \$560,000 (GFS),
FY 2029 - 2.4 FTE and \$280,000 (GFS)

Total costs for Fiscal Note are:

FY 2024 - 1.2 FTE and \$193,000 (GFS),
FY 2025 - 5.9 FTE and \$745,000 (GFS),
FY 2026 - 4.8 FTE and \$560,000 (GFS),
FY 2027 - 4.8 FTE and \$560,000 (GFS),
FY 2028 - 4.8 FTE and \$560,000 (GFS),
FY 2029 - 2.4 FTE and \$280,000 (GFS)

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	193,000	745,000	938,000	1,120,000	840,000
Total \$			193,000	745,000	938,000	1,120,000	840,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.2	5.9	3.6	4.8	3.7
A-Salaries and Wages	104,000	469,000	573,000	742,000	556,000
B-Employee Benefits	38,000	178,000	216,000	284,000	212,000
E-Goods and Other Services	37,000	58,000	95,000	42,000	33,000
G-Travel	5,000	5,000	10,000		
T-Intra-Agency Reimbursements	9,000	35,000	44,000	52,000	39,000
9-					
Total \$	193,000	745,000	938,000	1,120,000	840,000

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 2024	FY 2025	2023-25	2025-27	2027-29
ADMINISTRATIVE ASST 3	50,592		0.5	0.3	0.5	0.4
ENVIRONMENTAL PLANNER 4	89,292	0.5	0.5	0.5		
ENVIRONMENTAL PLANNER 5	98,592		1.0	0.5	1.0	0.8
Fiscal Analyst 2	53,000		0.8	0.4	0.8	0.6
HEALTH SERVICES CONSULTAN 3	75,120	0.5	0.5	0.5		
Health Svcs Conslt 1	53,000		0.5	0.3	0.5	0.4
MANAGEMENT ANALYST 4	82,896		1.0	0.5	1.0	0.8
MANAGEMENT ANALYST 5	91,524	0.2	0.1	0.2		
PUBLIC HEALTH ADVISOR 3	75,120		1.0	0.5	1.0	0.8
Total FTEs		1.2	5.9	3.6	4.8	3.7

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

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.

Section 2(2) – The state board shall adopt rules for the authorization, operation, and regulation of microenterprise home kitchen operations.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5708 SB

Title: Microenterprise home kitchen

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

Legislation Impacts:

- Cities:
- Counties:
- Special Districts: Indeterminate increase in both expenditures and revenues for local health jurisdictions
- Specific jurisdictions only:
- Variance occurs due to:

Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs: Initial implementation costs
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time: The number of inspections that would be conducted; cost of inspections; fee rates per jurisdiction

Estimated revenue impacts to:

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

Estimated expenditure impacts to:

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
County	803,390		803,390		
TOTAL \$	803,390		803,390		
GRAND TOTAL \$					803,390

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

Part III: Preparation and Approval

Fiscal Note Analyst: Brandon Rountree	Phone: (360) 999-7103	Date: 02/14/2023
Leg. Committee Contact:	Phone:	Date: 02/07/2023
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 02/14/2023
OFM Review: Breann Boggs	Phone: (360) 485-5716	Date: 02/16/2023

Part IV: Analysis

A. SUMMARY OF BILL

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

Overview: Establishes a microenterprise home kitchen operation pilot program and creates regulations and permitting standards for the program to be operated by all 35 local health jurisdictions.

Sec. 1: Defines all of the unique terms used in the bill.

Sec. 2: (1) (a) Establishes how many Microenterprise Home Kitchens Operation (MHKO) can be authorized by each size of county during the first year:

- Up to 100 MKHO can be authorized during the first year
- Population over 2,000,000 may issue up to 30 permits
- Population between 490,000 and 2,000,000 may issue up to 20 permits
- Population less than 490,000 may issue up to 10 permits

(b) Establishes how many Microenterprise Home Kitchens Operation (MHKO) can be authorized by each size of county during the second year:

- Up to 200 MKHO can be authorized during the first year
- Population over 2,000,000 may issue up to 60 permits
- Population between 490,000 and 2,000,000 may issue up to 40 permits
- Population less than 490,000 may issue up to 20 permits

(2) Establishes that local health jurisdictions (LHJ) can authorized up to 200 MHKO each year thereafter.

(4) Outlines the type of operations a MHKO can engage in.

(5) Outlines the regulations a MHKO are subject to follow.

(6) Outlines the rules that this section may include, but are limited to.

(7) Outlines the requirements of the current food service code (416-215 WAC) that MHKO must follow and are exempt from.

Sec. 3: (1) Requires LHJs to use application forms developed by the state department or the LHJ themselves to permit MHKO. LHJs may require MHKO to renew their permit and must use forms developed by the state department or the LHJ themselves.

(2) Lists the standard operating procedures that must be written and submitted to LHJs during the application process.

(3) Application may require more refrigeration capacity.

(4) Application is not to require to include public water supply and sewage descriptions.

(5) Requires operating plans to be submitted to LHJs, on forms developed by LHJs, and be accompanied by a review fee.

(6) Outlines the acknowledgment of permitted MHKOs to allow LHJs to seek entry into the permitted area for purpose of an inspection. Additionally, this sub-section outlines the requirements for conducting a non-emergency inspection.

(7) Outlines what is to be included in the permitted area.

(8) (a) Describes the requirements for issuing a permit after application and all relative information is submitted.

(b) Establishes that LHJs cannot require a MHKO to comply with food safety requirements beyond the ones mentioned in this chapter.

(9) Requires MHKO to provide documentation that all individuals involved with the preparation of food have a food and beverage service worker's permit under chapter 69.06 RCW.

(10) Establishes MHKO permits as non-transferable and the permit as only valid for the person and location specified by that permit and indicated time period.

(11) Requires the permit, or an accurate copy, to be retained by the operation on-site and displayed at all times.

Sec. 4: (1) Establish that LHJs can inspect MHKO up to once a year after the initial permitting and outlines the requirements for a non-emergency inspection. This sub-section also outlines the requirements for conducting an inspection in response to a foodborne outbreak or other public health emergency.

(2) Outlines the minimum requirements for a LHJ to conduct a basic hygiene inspection.

(3) Outlines the requirements for a LHJ to conduct a non-emergency MHKO inspection.

(4) Outlines what LHJs can do if they are denied access to a MHKO permitted area.

(5) Allows LHJs to charge a fee for issuing or renewing MHKO (authorized by RCW 70.50.060)

(6) Establishes that access provided under this chapter is limited to the permitted area, during the posted operating hours, and sole for the purpose of enforcing or administering this chapter.

Sec. 5: (1) Establishes that LHJs can impose penalties or conditions if they have determined that a MHKO is violating a provision or rule adopted under this chapter, or are operating a MHKO without a valid permit.

(2) (a) Requires LHJs to hold an administrative conference with the operator of a MHKO after the operator's first violation within a two-year period.

(b) Outlines the compliance methods a LHJ can utilize when a MHKO commits two or more violations within a two-year period.

(3) Establishes that the operation of a MHKO cannot be used a legal grounds for eviction, unless specifically identified in a lease agreement.

Sec. 6: (1) Outlines the five acts that an MHKO can commit to have their permit denied, suspended, or revoked by a LHJ. This course of action can only be taken after a LHJ conducts a hearing that determined the MHKO committed one or more of the five acts.

(2) Allows LHJs to suspend a MHKO permit if a health officer or designee finds the MHKO is operating under conditions that constitute an immediate danger to public health or the LHJ is denied access to the permitted area and recorded where the access was sought for the purpose of enforcing or administering this chapter.

Sec. 14: Establishes the obligation of local governments to comply with the requirements in section 2 through 6 of this act is contingent on the provision of state funding to local governments for the specific purpose of complying with these requirements.

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 would have an indeterminate expenditure impact on local governments. Total cost to local health jurisdictions (LHJ) will fall into two types of expenditures:

- Non-fee related work expenditures
- Fee related work expenditures

Non-fee Related Work

The Washington State Association of Local Public Health Officials estimates the total cost of non-fee related work to be \$338,990. Non-fee related work includes emergency inspections, responding to complaints, conducting educational outreach, and conducting food borne illness investigations and control efforts. These costs are hard to estimate because food borne illness is widely under-reported and conducting educational outreach is up to the LHJ.

Fee Related Work

Local health jurisdictions (LHJ) are able to charge a fees for the application, initial inspections, permitting, and violation compliance of a microenterprise home kitchen operation. These fees are used as a cost-recovery mechanism by LHJs and each LHJ has the ability to set their own fees. Large LHJ usually have higher fees than smaller ones. The Washington State Association of Local Public Health Officials estimates the total cost of fee related to work to be between \$395,670 and \$553,130. The ability of a LHJ to cover the cost of fee related work is dependent on the fee amount charged for fee related work.

Total Cost

Total expenditures are estimated to range between \$734,660 ($\$395,670 + \$338,990 = \$734,660$) and \$872,120 ($\$533,130 + \$338,990 = \$872,120$) with a mid-point of \$803,390 ($(\$872,120 - \$734,660) / 2 = \$803,390$).

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 revenue impact on local governments. The fees charged by Local health jurisdictions (LHJ) for microenterprise home kitchen operations are a cost-recovery mechanism and can only generate an amount of revenue less than or equal to the amount of fee related work. This amount will be established at the discretion of local jurisdictions and cannot be predicted.

Sources:

Washington State Association of Local Public Health Officials
House Bill Report, HB 7106, Local Government Committee
Local Government Fiscal Note, HB1258, (2021)