

# Department of Revenue Fiscal Note

<b>Bill Number:</b> 1764 HB	<b>Title:</b> Asphalt & agg. valuation	<b>Agency:</b> 140-Department of Revenue
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
GF-STATE-State 01 - Taxes 10 - Compensating Tax	(446,000)	(544,000)	(990,000)	(1,122,000)	(1,168,000)
Performance Audits of Government Account-State 01 - Taxes 10 - Compensating Tax	(1,000)	(1,000)	(2,000)	(2,000)	(2,000)
<b>Total \$</b>	(447,000)	(545,000)	(992,000)	(1,124,000)	(1,170,000)

### Estimated Expenditures from:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.4	0.1	0.3	0.1	
GF-STATE-State 001-1	50,300	11,300	61,600	11,300	
<b>Total \$</b>	50,300	11,300	61,600	11,300	

### 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.

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Request # 1764-1-1

## 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.*

#### CURRENT LAW:

Road construction projects are taxed differently depending on who owns the road. For purposes of this fiscal note, the terms “public road” and “public road construction” refer only to roads owned by the federal government or local government, and the building, repairing, or improving of these roads.

Public road contractors report their income from public road construction under the public road construction business and occupation (B&O) tax classification. In addition, public road contractors must pay retail sales or use tax on all materials they place in, or on, the road as well as on equipment and supply purchases. This applies to materials whether they are purchased, provided by others, or manufactured/extracted by the contractor.

In public road construction, where the contractor extracts or manufactures materials, such as asphalt and/or aggregates, that it incorporates as an ingredient or component of a road, the contractor owes use tax on the value of these materials. In addition, the contractor owes B&O tax under the manufacturing and/or extracting classifications on the value of the materials. For both use tax and B&O tax purposes, the value of these materials is based on comparable sales. The determination of comparable sales requires an evaluation of the following factors: (1) sales at comparable locations in this state; (2) similar products of like quality and character; (3) in similar quantities; (4) under comparable conditions of sale; and (5) to comparable purchasers.

In the absence of comparable sales of similar products as a guide to value, the value is determined by totaling all costs incurred to produce the asphalt, including labor and overhead.

#### PROPOSAL:

This bill would specify that for use tax purposes the value of materials incorporated as an ingredient or component of a public road is equal to the sum of all direct costs attributable to the materials, plus a public road construction market adjustment of 7% of those costs, when the article is not valued on its purchase price.

#### EFFECTIVE DATE:

The bill takes effect 90 days after final adjournment of the session.

### 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.*

#### ASSUMPTIONS

- Taxpayers are currently reporting use tax on self-manufactured public road construction materials using the cost of the materials unless specifically instructed by the department to use comparable sales.
- Taxpayers included in this estimate report public road construction B&O tax, manufacturing B&O tax, and use tax.
- The average value of self-manufactured public road construction materials is approximately 87% of the use taxable value reported to the department.
- The average direct costs of self-manufactured public road construction materials are approximately 92% of total costs.
- This legislation impacts 10 months of collections in fiscal year 2024.

#### DATA SOURCES

- Department taxpayer audit information
- Department excise tax information

- IHS, Markit forecast for nonresidential structures, November 2022
- Average local sales and use tax rate for fiscal year 2022

**REVENUE ESTIMATES**

This bill decreases state revenues by an estimated \$447,000 in the 10 months of impacted collections in fiscal year 2024, and by \$545,000 in fiscal year 2025, the first full year of impacted collections.

This bill also decreases local revenues by an estimated \$201,000 in the 10 months of impacted collections in fiscal year 2024, and by \$245,000 in fiscal year 2025, the first full year of impacted collections.

**TOTAL REVENUE IMPACT:**

State Government (cash basis, \$000):

- FY 2024 - (\$ 447)
- FY 2025 - (\$ 545)
- FY 2026 - (\$ 556)
- FY 2027 - (\$ 568)
- FY 2028 - (\$ 579)
- FY 2029 - (\$ 591)

Local Government, if applicable (cash basis, \$000):

- FY 2024 - (\$ 201)
- FY 2025 - (\$ 245)
- FY 2026 - (\$ 250)
- FY 2027 - (\$ 255)
- FY 2028 - (\$ 261)
- FY 2029 - (\$ 266)

**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.*

**ASSUMPTIONS:**

This legislation will affect 10 public road contractors.

**FIRST YEAR COSTS:**

The department will incur total costs of \$50,300 in fiscal year 2024. These costs include:

- Labor Costs - Time and effort equate to 0.43 FTE.
- Create special notice and update relevant information on the department’s website.
- Respond to tax ruling requests and email inquiries.
- Amend one excise tax advisory.
- Amend three administrative rules.

**SECOND YEAR COSTS:**

The department will incur total costs of \$11,300 in fiscal year 2025. These costs include:

- Labor Costs - Time and effort equate to 0.1 FTE.
- Update relevant information on the department’s website.
- Respond to tax ruling requests and email inquiries.

**ONGOING COSTS:**

Ongoing costs for fiscal year 2026 equal \$11,300 and include similar activities described in the second-year costs. Time and effort equate to 0.1 FTE.

**Part III: Expenditure Detail**

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.4	0.1	0.3	0.1	
A-Salaries and Wages	31,300	7,500	38,800	7,500	
B-Employee Benefits	10,300	2,500	12,800	2,500	
E-Goods and Other Services	5,900	1,000	6,900	1,000	
J-Capital Outlays	2,800	300	3,100	300	
<b>Total \$</b>	<b>\$50,300</b>	<b>\$11,300</b>	<b>\$61,600</b>	<b>\$11,300</b>	

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
EMS BAND 4	126,619	0.0		0.0		
EMS BAND 5	147,919	0.0		0.0		
MGMT ANALYST4	73,260	0.0		0.0		
TAX POLICY SP 2	75,120	0.3	0.1	0.2	0.1	
TAX POLICY SP 3	85,020	0.1		0.0		
TAX POLICY SP 4	91,524	0.0		0.0		
WMS BAND 3	107,685	0.0		0.0		
<b>Total FTEs</b>		<b>0.4</b>	<b>0.1</b>	<b>0.3</b>	<b>0.1</b>	

**III. C - 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

**Part V: New Rule Making Required**

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

Should this legislation become law, the department will use the expedited rulemaking process to amend WAC 458-20-112, titled: "Value of products," WAC 458-20-171, titled: "Building, repairing or improving streets, roads, etc., which are owned by a municipal corporation or political subdivision of the state or by the United States and which are used primarily for foot or

vehicular traffic,” and WAC 458-20-178, titled: “Use tax and the use of tangible personal property.” Persons affected by this rulemaking would include taxpayers that engage in public road construction.