

Multiple Agency Fiscal Note Summary

Bill Number: 5609 S SB	Title: Housing approval
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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 Commerce	1.2	545,554	545,554	545,554	.6	171,486	171,486	171,486	.6	173,886	173,886	173,886
Total \$	1.2	545,554	545,554	545,554	0.6	171,486	171,486	171,486	0.6	173,886	173,886	173,886

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
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

NONE

Prepared by: Gwen Stamey, OFM	Phone: (360) 790-1166	Date Published: Final 2/19/2023
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Individual State Agency Fiscal Note

Bill Number: 5609 S SB	Title: Housing approval	Agency: 103-Department of Commerce
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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	1.8	0.6	1.2	0.6	0.6
Account					
General Fund-State 001-1	459,811	85,743	545,554	171,486	173,886
Total \$	459,811	85,743	545,554	171,486	173,886

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: Melissa Van Gorkom	Phone: 360-786-7491	Date: 02/13/2023
Agency Preparation: Buck Lucas	Phone: 360-725-3180	Date: 02/16/2023
Agency Approval: Jason Davidson	Phone: 360-725-5080	Date: 02/16/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 02/19/2023

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.

Differences between the substitute bill and the original bill:

Amendments to Section 2 update several deadlines and expand data collection provisions, which do not change the fiscal note assumptions for the Department of Commerce (department).

Section 2 is amended to allow the department to include data collected under other programs when making calculations about housing shortage. The deadline for the department to complete its calculations is changed from December 1, 2023 to April 1, 2024. The deadline for the department to post the information on the public website is changed from December 31, 2023 to May 1, 2024. In addition, the effective date for a county or city or town to regularly evaluate its locally enacted codes, ordinance, plans and regulations is changed from January 1, 2024 to May 1, 2024.

Summary of the substitute bill:

This bill creates a new requirement for the department to create a housing production allocation for counties, cities, and towns to correct historic underproduction by 2033.

Section 2(2) requires the department to establish each county, city, and town's proportional share of the state's total housing shortage using the best available data, and this may include data collected under other programs, including data collected under chapter 36.70A RCW. The department must complete its calculation no later than April 1, 2024, and shall report the number of new homes that must be created in each county, city, and town through 2033, and it must post the same information on the department website no later than May 1, 2024.

Section 2(4) requires when a county, city, or town identifies a state-enacted requirement that will impede its ability to approve the construction of a sufficient number of new homes under Section 2, the jurisdiction must report its findings to the department. The department shall regularly forward such reports to the governor, lieutenant governor, chief clerk of the house of representatives, and secretary of the senate.

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.

Assumptions:

- The department assumes staff time and a professional consultant to develop the new program for calculating housing shortages statewide, collection of local reports, and for collating them into a department report which is then provided regularly to the governor and legislature. This includes the assumption of significant administrative impact in FY24, to meet the April 1, 2024 deadline, and publication of the housing unit allocations by May 1, 2024.
- A professional consultant would be required with expertise in statewide housing data for establishing the proportional share of housing shortage outlined under Section 2(2) by April 1, 2024.

- The department assumes minor rulemaking would be needed for establishing procedures for the county, city and town reporting requirements under Section 2(4) by FY25.

Section 2:

1.0 FTE Commerce Specialist 3 (2088 hours) in FY24 and 0.5 FTE Commerce Specialist 3 (1044 hours) in FY25-FY29, for overall program management, including establishment of the housing data project management, establishing the process and guidance for local reporting requirements, report preparation in 2023, and ongoing reporting review, data management and regular reports under Section 2.

0.5 FTE Management Analyst 4 (1044 hours) in FY24, for coordinating guidance, data work and report support, and rulemaking updates for the reporting management and immediate support for this program under Section 2.

Salaries and Benefits:

FY24: \$169,044

FY25-FY29: \$57,423 per fiscal year

Professional Services Contract:

The department assumes a professional consultant for establishing the housing shortage data statewide and developing the initial report in FY24 (Section 2) at 1,000 hours in FY24 with a billable rate of \$200 per hour.

FY24: \$200,000

Goods and Services:

FY24: \$26,597

FY25-FY29: \$9,428 per fiscal year

Travel:

Travel costs includes outreach to communities across the state to provide information and resources for the department calculations prepared under Section 2, consisting of 10 days of outreach and engagement, with half of them requiring lodging.

FY24: \$3,555

Equipment:

The department assumes standard workstations in FY24 and a replacement computer based on the department's five-year replacement schedule.

FY24: \$5,000

FY28: \$2,400

Intra-agency Reimbursements:

FY24: \$55,615

FY25-FY29: \$18,892 per fiscal year

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

Total Costs:

FY24: \$459,811

FY25-FY27: \$85,743 per fiscal year

FY28: \$88,143

FY29: \$85,743

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	459,811	85,743	545,554	171,486	173,886
Total \$			459,811	85,743	545,554	171,486	173,886

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.8	0.6	1.2	0.6	0.6
A-Salaries and Wages	125,162	42,259	167,421	84,518	84,518
B-Employee Benefits	43,882	15,164	59,046	30,328	30,328
C-Professional Service Contracts	200,000		200,000		
E-Goods and Other Services	26,597	9,428	36,025	18,856	18,856
G-Travel	3,555		3,555		
J-Capital Outlays	5,000		5,000		2,400
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	55,615	18,892	74,507	37,784	37,784
9-					
Total \$	459,811	85,743	545,554	171,486	173,886

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	0.3	0.1	0.2	0.1	0.1
Commerce Specialist 3	82,056	1.0	0.5	0.8	0.5	0.5
Management Analyst 4	86,212	0.5		0.3		
Total FTEs		1.8	0.6	1.2	0.6	0.6

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.

Section 2: Minor rulemaking may be required under Title 365 WAC to provide guidance on calculating and reporting.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5609 S SB

Title: Housing approval

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

Legislation Impacts:

Cities: could incur significant costs to amend ordinances, zoning, development regulations and comprehensive plans. Could incur additional costs to identify and provide for increased capital facilities. Could lose REET funding if jurisdictions fail to permit their proportionate share of the housing deficit by 2033.

Counties: same as above.

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: the different local ordinances and development regulations cities, towns and counties have in place and how those ordinances and development regulations may need to be amended; the variance amongst comprehensive plans and their various elements; varying permitting processes; current zoning in each jurisdiction; the maximum number of housing units that could be permitted in each jurisdiction under its current zoning requirements, which jurisdictions will lose REET funding.

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: 02/16/2023
Leg. Committee Contact: Melissa Van Gorkom	Phone: 360-786-7491	Date: 02/13/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 02/16/2023
OFM Review: Gwen Stamey	Phone: (360) 790-1166	Date: 02/19/2023

Part IV: Analysis

A. SUMMARY OF BILL

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

CHANGES BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

The substitute legislation would push back the start date upon which cities, towns and counties must begin evaluating their locally-enacted code, ordinance, plan and regulations to see if any impede new residential development. The start date is changed from January 1, 2024 to May 1, 2024.

These changes do not affect the revenue and expenditure impacts below.

SUMMARY OF CURRENT BILL:

Section 2 adds a new section.

Sec. 2 (1) requires counties, cities and towns that have the authority to approve or deny permits to approve the construction of enough new homes to eliminate each local government's proportional share of the state's total housing shortage through 2033 (Commerce would calculate each jurisdiction's proportionate share of the housing shortage).

Sec. 2 (3): requires counties, cities and towns that approve or deny permits to "regularly" review its locally enacted codes, ordinances, plans, and regulations to determine whether the local requirements impede housing efforts. The legislation does not define "regularly." When a jurisdiction identifies a locally enacted impediment to development, they are encouraged to amend the enacted regulation to remove the development impediment.

Sec. 2 (4): when a county, city or town identifies a state-enacted requirement that impedes housing development, they shall report their findings to the Department of Commerce.

Sec. 3 (2) (b): prohibits distribution of the earnings of investments of balances in the Local Real Estate Excise Tax Account to any county, city, or town that does not comply with the conditions and 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.

CHANGES IN EXPENDITURE IMPACTS BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

The substitute legislation does not change the varying and sometimes significant expenditure impact this bill could have on local governments.

EXPENDITURE IMPACTS OF CURRENT BILL:

The legislation would apply to all 320 jurisdictions in Washington (281 cities + 39 counties), and some jurisdictions could incur indeterminate, varying and sometimes significant expenditure impacts. The legislation would require cities, towns and counties to permit their proportionate share of the housing deficit by 2033. Some jurisdictions may have to amend zoning regulations, development regulations, and comprehensive plan elements (for those cities, counties and towns with them) to meet the requirements of the legislation. Updating locally-enacted requirements could be minor for some jurisdictions, and significant for others. However, the costs associated with this work will vary by jurisdiction and cannot be anticipated in advance. Therefore, the cost of the legislation is indeterminate.

Cities, towns and counties would be required to permit their proportionate share of the housing deficit by 2033. However, if a jurisdiction's current zoning, development regulations and comprehensive plan elements would not allow enough housing to be permitted to meet the jurisdiction's required quota, then the jurisdiction would have to examine and amend its locally-enacted code and regulations to allow enough housing to be permitted. Amending existing code generally carry higher costs than implementing new code, according to Association of Washington Cities.

Per Section 2 (4), local jurisdictions may also incur indeterminate expenses from identifying and reporting state-enacted

requirements that impede housing development.

LOCAL AMENDMENTS

Costs for jurisdictions to amend their locally-enacted requirements could include: analyzing comprehensive plan policies and municipal code to determine the extent of amendments required; drafting informational materials on reasons for, and approaches to, allowing higher-density housing (e.g. design regulations to ensure compatibility) for public review; conducting outreach to inform and solicit feedback from residential neighborhoods and developers; drafting proposed amendments for the jurisdiction's planning commission considerations; a planning commission public hearing and recommendation to the jurisdiction's council; the jurisdiction's presentation of the planning commission's recommendations to the local council; and a city or county public hearing and action. This work could also involve modifying existing local zoning designations.

Additional indeterminate costs could be incurred if a jurisdiction revises its permitting process, including site development plan review, variance, and conditional use permits. Environmental review and zoning overlays may need amendments, as well. Costs to modify these elements will vary by jurisdiction and cannot be estimated in advance.

COMPREHENSIVE PLAN AMENDMENTS

The density required to accommodate growth over the next 10 year period within the urban growth areas (UGAs) will be increased. This could require updates to comprehensive plan elements (specifically the Housing and the Capital Facilities Plan element, but possibly more) to account for increased housing density, and increased water, sewer, roads, stormwater facility demand for that density.

COMPREHENSIVE PLAN: HOUSING

The Housing elements of cities' comprehensive plans could need to be amended if the density permitted in the UGA does not match proportionate share of the jurisdiction's housing deficit that needs to be permitted. Land capacity analysis is a requirement of Housing elements within the next periodic update cycle per HB 1220 (2021). Permitting more housing under the provisions of this act would change the analysis planning that jurisdictions undertake when updating these elements from 2024 to 2027 per RCW 36.70A.130. Housing elements generally require complex amendments, however the scope and scale of the updates required by a jurisdiction would have varying complexities depending on the identified density increase to meet the population projection that are specific to a jurisdiction's UGA. According to the Local Government Fiscal Note for SB 5466 (2023), these element amendments may have per city costs ranging from \$32,475 to \$108,250. If the updates require minor element amendments these costs could approximate to \$16,000 to \$32,500. Costs may be higher in jurisdictions with larger housing deficits.

COMPREHENSIVE PLAN: CAPITAL FACILITIES

The Capital Facilities Plan elements of cities' comprehensive plans may need to be amended, as well. Capital Facilities Plan elements are a critical component in the process prescribing allowable density within a UGA because the plans must demonstrate that UGAs can be supported with adequate facilities, services, and funding to sustain urban development. Capital facilities plans, in conjunction with six-year capital improvement plans, can help jurisdictions use limited funding effectively to maximize financing opportunities to support urban services in these areas. Due to the provisions of this bill, cities could have higher density requirements within the UGA, and planning jurisdictions would have to identify and plan for additional capital facilities' needs and funding within their UGA, including operations and maintenance. Capital facilities plan elements generally require complex amendments. However the scope and scale of the updates required by this act would have varying complexities depending on potentially increased residential density, which are specific to a jurisdiction's UGA. According to the Local Government Fiscal Note SB 5466 (2023), these element amendments may have per city costs ranging from \$32,475 to \$108,250. If the updates require minor element amendments, then these costs could approximate to \$16,000 to \$32,500.

ILLUSTRATIVE COSTS

For illustrative purposes only, two example cost models are offered below. The first shows what it could cost a city to amend its locally-enacted code and regulations to allow for increased residential development and density. The second demonstrates potential costs for cities to amend their comprehensive plans. However, the actual costs cities and counties will incur as a result of the legislation cannot be estimated in advance and is therefore indeterminate.

Illustrative costs for amending local requirements:

A total of 52 fully-planning cities with populations over 20,000 were awarded \$4 million in grant funding to increase residential building capacity under RCW 36.70A.600. According to the grant averages provided by the Department of Commerce in SHB 2343 (2020), the average grant award was \$77,000 per city.

Illustrative costs for amending comprehensive plans:

A previous fiscal note demonstrates potential costs for a city to amend their comprehensive plan. LGFN assumes comprehensive plan changes that would result from this legislation would fall under the “complex element” category of amendments. So, the complex element updates from E2S HB 1099 (2022) are offered below. Large cities are defined as having populations greater than 100,000. Medium-size cities have populations between 10,000 and 100,000. Small cities have less than 10,000 in population.

Potential range of cost estimates for complex element amendments:

Small sized cities: $\$32,475 \times 2 = \$64,950$

Medium sized cities: $\$54,125 \times 2 = \$108,250$

Large sized cities: $\$108,250 \times 2 = \$216,500$

ADDITIONAL POTENTIAL EXPENDITURES

Cities and counties that elect to take supplemental actions to encourage housing development would face indeterminate costs. These costs could extend from adoption of financial incentives, such as permit fee waivers, to direct subsidies of affordable housing development projects. The range of actions cannot be predicted in advance and would be taken as a local option to attempt to meet the residential development quotas in jurisdictions that did not have sufficient market demand to meet those requirements through unsubsidized private development.

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.

The legislation could result in significant indeterminate decreases in revenue for cities, towns and counties that do not meet their housing permitting quotas by 2033, as the legislation would prohibit distribution of Real Estate Excise Tax (REET) funds to any county, city or town that did not permit their proportionate share of the housing quota.

Of note, in 2022 approximately 28% of counties averaged growth rates higher than the state average while 33% of the cities did, according to the 2022 Office of Financial Management’s Housing and Population Estimates. That means 71% of counties did not and 67% of cities fell short.

This shows that growth and development pressure clusters unevenly. As a result, even if some jurisdictions removed all barriers to growth, they might not experience growth due to the differentials in economic demand for development. As a result, it is likely that a significant amount of cities would lose their REET revenues.

For illustrative purposes only, the Department of Revenue provided 2022’s local REET collections. In fiscal year 2022, Washington state counties’ total REET revenue collected was \$734,555,009. DOR reported this does not include local REET numbers from controlling interest transfers, but it does contain the vast majority of the local REET collections.

SOURCES:

Association of Washington Cities

Department of Commerce SHB 2343 (2020)

Department of Revenue
Local Government Fiscal Note E2S HB 1099 (2022)
Local Government Fiscal Note HB 1110 (2023)
Local Government Fiscal Note SB 5466 (2023)
Office of Financial Management's Housing and Population Estimates 2022
Washington State Association of Counties