

Multiple Agency Fiscal Note Summary

Bill Number: 1777 HB	Title: Energy contracting
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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	Fiscal note not available					
Local Gov. Other	No fiscal impact					
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 Enterprise Services	Non-zero but indeterminate cost and/or savings. Please see discussion.											
SWF Statewide Fiscal Note - OFM	Non-zero but indeterminate cost and/or savings. Please see discussion.											
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									
Loc School dist-SPI	Fiscal note not available								
Local Gov. Other	No fiscal impact								
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 Enterprise Services	.0	0	0	.0	0	0	.0	0	0
SWF Statewide Fiscal Note - OFM	Non-zero but indeterminate cost and/or savings. Please see discussion.								
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	Fiscal note not available								
Local Gov. Other	No fiscal impact								
Local Gov. Total									

Estimated Capital Budget Breakout

SWF Statewide Fiscal Note - OFM	Non-zero but indeterminate cost and/or savings. Please see discussion.
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Prepared by: Jennifer Masterson, OFM	Phone: (360) 810-0117	Date Published: Preliminary 2/21/2023
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Individual State Agency Fiscal Note

Bill Number: 1777 HB	Title: Energy contracting	Agency: 179-Department of Enterprise Services
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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: Dawn Eychaner	Phone: 360-786-7135	Date: 02/10/2023
Agency Preparation: Becky Guyer	Phone: (360) 407-9254	Date: 02/16/2023
Agency Approval: Ashley Howard	Phone: (360) 407-8159	Date: 02/16/2023
OFM Review: Jennifer Masterson	Phone: (360) 810-0117	Date: 02/18/2023

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.

This bill adds what is known in the vernacular as "Energy as a Service" to the Energy Savings Performance Contracting (ESPC) statute.

Section 1: Adds language to RCW 39.35A.020 and 2022 c 128 s 2 to allow service payments over time to any person(s) or entity(ies) that owns energy equipment and provides services under a performance-based contract. No fiscal impact to the Department of Enterprise Services (DES).

Section 2: Amends the definitions of "cost-effective" and "Performance-based contracting." No fiscal impact to DES.

Section 3: Establishes that the department may contract with a person or entity for energy equipment/services if the contract includes terms that the equipment ownership will be transferred to the contracted person or entity, the person/entity will be responsible for cost savings, and performance guarantees through contract terms, and the equipment ownership will be transferred back to the agency at the end of the financing term of the contract. Furthermore, it states that "the value of the energy equipment or services at the time of contract execution may exceed the "fair market value" of the property leased by the state agency or school district and must be considered cost-effective."

Section 4: amends RCW 39.35C.060 and 1996 c 186 s 410 to add school districts to state agencies and performance-based contracts to financial contracts. It also adds service payments over the term to principal and interest payments. No impact to DES.

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 is anticipated that there will be additional need for staffing in the DES Energy program within Facility Professional Services (FPS). That added need for staffing is unknown and depends on the degree to which this financing mechanism is utilized, the size of the projects it is used for, and the workload of each of the projects added as a result of this financing opportunity. Any costs associated with additional FTEs would be recovered through the project management fees.

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.

LOCAL GOVERNMENT FISCAL NOTE

Revised

Department of Commerce

Bill Number: 1777 HB

Title: Energy contracting

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

Legislation Impacts:

- Cities:
- Counties:
- Special Districts:
- Specific jurisdictions only:
- Variance occurs due to:

Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option: to use performance-based contracting for financing certain projects (no impact)
- Key variables cannot be estimated with certainty at this time:

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

None

Part III: Preparation and Approval

Fiscal Note Analyst: Angie Hong	Phone: 360-725-5041	Date: 02/16/2023
Leg. Committee Contact: Dawn Eychaner	Phone: 360-786-7135	Date: 02/10/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 02/16/2023
OFM Review: Jennifer Masterson	Phone: (360) 810-0117	Date: 02/17/2023

Part IV: Analysis

A. SUMMARY OF BILL

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

This bill authorizes the use of performance-based contracting for energy services and equipment for the state, municipalities, and school districts.

Financing options detailed in this legislation are a local option and have no impact upon local government revenues or expenditures.

Section 1 amends RCW 39.35A.020 [Performance-based contracts for water conservation, solid waste reduction, and energy equipment - Definitions] to add the option: “payment obligations may include regular service payments made by a municipality to any persons or entities that own energy equipment and services under a performance-based contract.”

Section 2 amends RCW 39.35C.010 [Energy conservation projects - Definitions] to add detail to the definition of “cost effective” and add detail to the definition of “Performance-based contracting.”

Section 3 amends RCW 39.35C.050 [Energy conservation projects - Authority of state agencies and school districts to implement conservation] to add detail regarding a school district’s authority, and performance-based contract requirements.

Section 4 amends RCW 39.35C.060 [Energy conservation projects - Authority to finance conservation in school districts and state agencies] to add school districts and performance-based contracts to the RCW.

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 does not impact local government expenditures.

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 bill does not impact local government revenues.

SOURCES

Dept. of Enterprise Services Fiscal Note

Individual State Agency Fiscal Note

Bill Number: 1777 HB	Title: Energy contracting	Agency: SWF-SWF Statewide Fiscal Note - OFM
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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:

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

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: Dawn Eychaner	Phone: 360-786-7135	Date: 02/10/2023
Agency Preparation: Julie Pettit	Phone: 3608902669	Date: 02/21/2023
Agency Approval: Kathy Cody	Phone: 360-480-7237	Date: 02/21/2023
OFM Review: Jennifer Masterson	Phone: (360) 810-0117	Date: 02/21/2023

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 amends RCW 39.35A.020 [Performance-based contracts for water conservation, solid waste reduction, and energy equipment - Definitions] to add the option: “payment obligations may include regular service payments made by a municipality to any persons or entities that own energy equipment and services under a performance-based contract.”

Section 2 amends RCW 39.35C.010 [Energy conservation projects - Definitions] to add detail to the definition of “cost effective” and add detail to the definition of “Performance-based contracting.”

Section 3 amends RCW 39.35C.050 [Energy conservation projects - Authority of state agencies and school districts to implement conservation] to allow state agencies work independently (not through the Department of Enterprise Services) to finance energy conservation projects at public facilities, enter into performance-based contracts for energy services, and contract to sell energy savings from a conservation project.

Specific conditions laid out in the bill must be met for a state agency to contract with a person or entity for energy equipment or services, whether state agencies finance these projects independently or through the Department of Enterprise Services:

1. The contract must include terms that transfer ownership of energy equipment from the state agency to the person or entity;
2. The person or entity is responsible for cost-savings and performance guarantees through the terms of the contract;
3. The value of energy equipment or services at the time of contract execution may exceed the fair market value of property leased by the state agency, and this must be considered to be cost-effective; and
4. At the end of the financing term of the contract, equipment ownership must be transferred back to the state agency at no residual value.

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.

The language of this bill is permissive, and it is unknown how many state agencies might enter into these financing contracts. It is possible this financing mechanism may encourage agencies to shift payment for facility energy system projects to the operating budget from the capital budget. Because instead of purchasing energy systems directly, agencies would be paying debt service to persons or entities that own energy equipment and services under a performance-based contract. Otherwise, there may be little difference in cost if agencies purchased the systems through existing mechanisms or through a contract-based contract.

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

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

IV. B - Expenditures by Object Or Purpose

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

IV. C - Capital Budget Breakout

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

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

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

NONE

The language of this bill is permissive, and it is unknown how many state agencies might enter into these financing contracts. It is possible this financing mechanism may encourage agencies to shift payment for facility energy system projects to the operating budget from the capital budget. Because instead of purchasing energy systems directly, agencies would be paying debt service to persons or entities that own energy equipment and services under a performance-based contract. Otherwise, there may be little difference in cost if agencies purchased the systems through existing mechanisms or through a contract-based contract.

Part V: New Rule Making Required

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