

Multiple Agency Fiscal Note Summary

Bill Number: 1706 S HB	Title: Microenterprise home kitchen
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Estimated Cash Receipts

NONE

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	7.8	1,733,000	1,733,000	1,733,000	7.7	1,696,000	1,696,000	1,696,000	.4	75,000	75,000	75,000
Total \$	7.8	1,733,000	1,733,000	1,733,000	7.7	1,696,000	1,696,000	1,696,000	0.4	75,000	75,000	75,000

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	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 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

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Phone:
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Date Published:
Final 2/24/2023

Individual State Agency Fiscal Note

Bill Number: 1706 S HB	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	7.8	7.7	7.8	7.7	0.4
Account					
General Fund-State 001-1	885,000	848,000	1,733,000	1,696,000	75,000
Total \$	885,000	848,000	1,733,000	1,696,000	75,000

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: Lily Smith	Phone: 360-786-7175	Date: 02/19/2023
Agency Preparation: Katie Osete	Phone: 3602363000	Date: 02/24/2023
Agency Approval: Stacy May	Phone: (360) 236-4532	Date: 02/24/2023
OFM Review: Breann Boggs	Phone: (360) 485-5716	Date: 02/24/2023

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 fiscal impact of this substitute version of the bill has increased from the original bill version. The original bill required Local Health Jurisdictions (LHJs) to review the application materials, issue permits, inspect, and conduct enforcement actions as needed. This substitute bill requires the Department of Health (DOH) to conduct all those activities other than the inspections. Also, costs increase as there is now an extra year to implement the pilot program which expires June 2027.

Section 3(1): The Department of Health (DOH) shall develop and begin a pilot program to allow for microenterprise home kitchen operations (MHKO). Prior to issuing permits in any county, DOH must enter into a joint plan of responsibility with a local health jurisdiction (LHJ) to administer the pilot program. Starting July 1, 2024, DOH is authorized to permit and inspect up to 200 microenterprise home kitchen operations during the pilot program. DOH may issue no more than 75 permits in a single county.

Section 4(1): A microenterprise home kitchen operation must obtain a permit from DOH.

Section 4(2): MHKOs must renew their permit annually. DOH must maintain data on existing commissary, shared, or commercial kitchen facilities available for rent.

Section 4(4): Applicants must submit a written standard operating plan to DOH to review as part of their application to operate.

Section 6(1): Authorizes DOH to impose penalties if any person is engaging in MHKO operation without a permit.

Section 6(2): Authorizes DOH to impose penalties for MHKO operations violating the chapter.

Section 6(3): Authorizes DOH to take other enforcement actions including written warnings, probation, and permit suspension and revocation.

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.

Pilot Program Development

Section 3(1): MHKO Pilot Program: To develop the pilot program to allow for MHKO operations, work will take place during the time-period of July 1, 2023, through June 30, 2024 (FY 2024):

Beginning in FY (fiscal year) 2024 DOH will require:

- 0.2 FTE Environmental Planner 5 (Supervisor) – Supervise two Public Health Advisor 3's (PHA3); provide technical consultation and training to the Health Services Consultant 4 (HSC4) and two Public Health Advisor 3's (PHA3).

•1.0 FTE Health Services Consultant 4 (Project Manager) – 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; connect with the Food and Drug Administration (FDA), pilot program advocates, department inspectors, and LHJs on food code and safety issues; work with rules team and State Board of Health (SBOH) to consider language and proper implementation.

•1.5 FTE Public Health Advisor 3 (Food Safety Specialists) – Two staff will be hired by January 2024 to assist with pilot program development; onboarding; training; and reviewing plans and applications. Will review applications, plans, and issue permits and develop associated forms.

•1.0 FTE Management Analyst 4 (Community Engagement Specialist) – Staff 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; will consult with other pilot program staff on equity impacts related to pilot program development.

•1.0 FTE Health Services Consultant 2 (Industry Advocate) – Staff will be responsible for responding to food safety complaints and notifications of illegal operations and businesses permitted under the pilot program; working with LHJs to resolve complaints and identify enforcement actions; tracking the complaints and their resolution; analyzing complaint data; identifying businesses preparing food at home for retail sale and the internet platforms promoting those businesses; contacting and educating those businesses and internet platforms regarding legal ways to conduct food businesses.

•1.0 FTE Administrative Assistant 3 (Program Support) – Staff will help with general admin support for the project; provide customer service support to the permittees; database management; process permits and applications; set up inspection dates/times; communications and webpage maintenance. Will work to set up framework for applications, plan review, permitting, and tracking number of shared spaces for rent and to edit application, plan review forms and annual reports.

Other -

•Attorney General - Ensure the development of the pilot program by DOH meets regulations \$5,000.

•Database Enhancement - Without knowing defined program requirements, DOH assumes existing databases can be utilized to incorporate data for MHKOs with only minor enhancements. Minor enhancements will be done by the vendor and will include additional configuration required to capture additional facilities details \$5,000.

•Database Licenses - Two user licenses are required for program staff to access the database \$5,200.

•Interpreter Services - The legislature recognizes there are existing barriers in access to the food and hospitality industry that disproportionately impact black, indigenous, and immigrant, low income, and communities of color. As such, the DOH assumes that interpreter services will be available to the general public, potential applicants, applicants, and permittees that have questions about the pilot program and permitting. DOH assumes for every permit available there will be roughly two calls (400 calls) needing interpreter services in FY 2024 averaging 30 minutes per call from the general public and potential applicants needing interpreter services. Based on the states master contract, DOH assumes \$0.75 per minute for over the phone interpreter services, therefore DOH assumes interpreter cost during program development would costs roughly \$9,000.

Total cost of Pilot Program Development:
FY 2024 – 7.8 FTE and \$885,000 (GFS)

Implement Pilot Program

Section 3(1): MHKO Pilot Program: Implement pilot program to allow for MHKO operations, work will take place during

the time-period of July 1, 2024, through June 30, 2027 (FY 2025-2028):
Beginning in FY (fiscal year) 2025 DOH will require:

- 0.2 FTE Environmental Planner 5 (Supervisor) – Supervise two PHA3; provide technical consultation and training to the HSC4 and two PHA3.

- 1.0 FTE Public Health Advisor 4 (Project Manager) - Staff will continue to handle the requirements of the pilot project, work with legal counsel and ethics board to ensure the appropriate safeguards are working during implementation; focus on implementation issues related to zoning, other agency requirements; connect with the Food and Drug Administration (FDA), pilot program advocates, and LHJs on food code and safety issues; work with rules team and SBOH to consider language and proper implementation; lead annual report writing.

- 1.5 FTE Public Health Advisor 3 (Food Safety Specialists) – Staff will handle implementation, review plans and applications, inspections, and troubleshoot food safety issues; will work with LHJs. Will review applications, plans, and issue permits and develop associated forms.

- 1.0 FTE Management Analyst 4 (Community Engagement Specialist) – Staff will continue to handle communications and engagement with unrepresented populations during implementation; partner with organizations focused on equity and food security; will work with food industry to reflect business models and impacts; will work with pilot program team on equity issues that come up during implementation.

- 1.0 FTE Health Services Consultant 2 (Industry Advocate) – Staff will be responsible for responding to food safety complaints and notifications of illegal operations and businesses permitted under the pilot program; working with LHJs to resolve complaints and identify enforcement actions; tracking the complaints and their resolution; analyzing complaint data; identifying businesses preparing food at home for retail sale and the internet platforms promoting those businesses; contacting and educating those businesses and internet platforms regarding legal ways to conduct food businesses.

- 1.0 FTE Administrative Assistant 3 (Program Support) – Staff will help with general admin support for the project; provide customer service support to the permittees; database management; process permits and applications; edit and format reports and joint plan of responsibility; communications and webpage maintenance. Will work to set up framework for applications, plan review, permitting, and tracking number of shared spaces for rent and to edit application, plan review forms and annual reports.

Other -

- Database Licenses - Two user licenses are required to be renewed each year for program staff to access the database \$1,400.

- Interpreter Services - DOH assumes there will be roughly 200 calls each year with an average of 15 minutes per call from the general public and permittees needing interpreter services therefore DOH assumes interpreter cost during program implementation would cost roughly \$6,750.

- 0.3 FTE of an HSC4 and HSC2 will be utilized in FY 2028 to analyze results of the pilot program, create reports, and determine next steps for the MHKO program.

Total Pilot Program Implementation Costs:

FY 2025 – 7.7 FTE and \$848,000 (GFS),

FY 2026 – 7.7 FTE and \$848,000 (GFS),

FY 2027 – 7.7 FTE and \$848,000 (GFS),

FY 2028 – 0.7 FTE and \$75,000 (GFS)

Total Costs for Fiscal Note are;
 FY 2024 – 7.8 FTE and \$885,000 (GFS),
 FY 2025 – 7.7 FTE and \$848,000 (GFS),
 FY 2026 – 7.7 FTE and \$848,000 (GFS),
 FY 2027 – 7.7 FTE and \$848,000 (GFS),
 FY 2028 – 0.7 FTE and \$75,000 (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	885,000	848,000	1,733,000	1,696,000	75,000
Total \$			885,000	848,000	1,733,000	1,696,000	75,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	7.8	7.7	7.8	7.7	0.4
A-Salaries and Wages	542,000	550,000	1,092,000	1,100,000	49,000
B-Employee Benefits	218,000	219,000	437,000	438,000	19,000
E-Goods and Other Services	58,000	36,000	94,000	72,000	3,000
J-Capital Outlays	24,000		24,000		
T-Intra-Agency Reimbursements	43,000	43,000	86,000	86,000	4,000
9-					
Total \$	885,000	848,000	1,733,000	1,696,000	75,000

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	1.0	1.0	1.0	1.0	
ENVIRONMENTAL PLANNER 5	98,592	0.2	0.2	0.2	0.2	
Fiscal Analyst 2	53,000	1.2	1.2	1.2	1.2	0.1
HEALTH SERVICES CONSULTAN 2	66,420	1.0	1.0	1.0	1.0	0.1
HEALTH SERVICES CONSULTAN 4	82,896	1.0	1.0	1.0	1.0	0.2
Health Svcs Conslt 1	53,000	0.9	0.8	0.9	0.8	0.1
MANAGEMENT ANALYST 4	82,896	1.0	1.0	1.0	1.0	
PUBLIC HEALTH ADVISOR 3	75,120	1.5	1.5	1.5	1.5	
Total FTEs		7.8	7.7	7.8	7.7	0.4

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: 1706 S HB

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 expenditures 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: Counties can opt out of participating in the pilot program
- Key variables cannot be estimated with certainty at this time: The number of inspections that would be conducted; cost of inspections

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

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

Part III: Preparation and Approval

Fiscal Note Analyst: Brandon Rountree	Phone: (360) 999-7103	Date: 02/24/2023
Leg. Committee Contact: Lily Smith	Phone: 360-786-7175	Date: 02/19/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 02/24/2023
OFM Review: Breann Boggs	Phone: (360) 485-5716	Date: 02/24/2023

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:

There are two primary changes between the substitution and previous version. The first primary change is the addition of the Department of Health (DOH) to the permitting and enforcement processes of microenterprise home kitchen operations (MHKO). Under the provision of the new version, local health jurisdictions (LHJs) would be required to enter into a joint plan of responsibility with DOH before issuing permits. LHJs would be required to inventory, permit, and inspect, commissary, shared, or commercial kitchen facilities and would be involved in the enforcement process.

The second primary change between versions was the removal and replacement of the differing limits on MHKO permits by county size with a flat maximum of 75 permits per county.

SUMMARY OF CURRENT BILL:

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. 2: Defines all of the unique terms used in the bill.

Sec. 3: (1) (a) Adds new language which requires any local health jurisdiction participating in the pilot program to enter into a joint plan of responsibility with the department before issuing permits.

(1) (b) Removes limit of MHKO that can be permitted by county size during second year and replaces with no county being able to permit more than 75 MHKO.

(2) Authorizes MHKO to sell food directly to consumers for consumption at a location other than on the premises of MHKO.

(3) MHKO are subject to chapter 246-215 WAC, including but not limited to the restrictions listed in (3) (a-j).

(4) MHKO must follow the requirements in chapter 246-215 WAC, unless otherwise exempted by the department upon conducting a risk-based plan review pursuant to section 4 if this act.

(5) Upon the conclusion of the pilot program, the state board may, based on the department's recommendation, adopt rules for the authorization, operation, and regulation of MHKO.

Sec. 4: (1) A MHKO must obtain a permit from the department.

(2) A MHKO permit must be renewed annually. The department must maintain data on existing commissary, shared, or commercial kitchen facilities available for rent. Local health jurisdictions will work to inventory, permit, and inspect, commissary, shared, or commercial kitchen facilities.

(3) All MHKO permits expire June 30, 2027.

(4) When applying for a permit, an applicant must submit a written standard operating plan to the department.

(4) (n) If the MHKO is in a rental property, attestation that operating a business does not violate the rental agreement.

(6) Changes local health jurisdiction to department. Outlines the process for conducting an inspection.

(7) Changes local health jurisdiction to department. Adds risk-based assessment of the MHKO operating plan to the list of tasks that must be completed before permitting the MHKO.

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) Adds department to sub-section. Authorizes the department or local health jurisdiction to impose penalties consistent with violations of chapter 246-215 WAC.

(2) Changes local health jurisdiction to department.

Sec. 7: (1) Changes local health jurisdiction to department.

Sec. 9: Changes expiration date from June 30, 2026 to June 30, 2027.

Sec. 11: Requires the department to submit an annual report to the legislature and the governor by June 30th of each year. Lists what must be included in the report.

Sec. 13: Changes chapter expiration date from December 31, 2028 to June 30, 2027.

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:

Under the provision of the new version, most authority would be switched from local health jurisdictions (LHJ) to the Department of Health (DOH). The switching of authority from LHJs to DOH would result in DOH being responsible for the permitting process entirely and requires any LHJs participating in the pilot program to enter into a joint plan of responsibility with DOH before issuing permits. LHJs would be required to also work to inventory, permit, and inspect, commissary, shared, or commercial kitchen facilities.

EXPENDITURE IMPACTS OF CURRENT BILL:

This legislation would have an indeterminate expenditure impact on local governments. None of the contacted sources could estimate the cost of entering into a joint plan of responsibility with DOH before issuing permits. Additionally, the cost of entering into a joint plan of responsibility with DOH can vary widely because each LHJ is only liable for the MHKO within their jurisdiction.

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.

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

The new version removes the authorization for local health jurisdictions to charge a fee for permitting microenterprise home kitchen operations (MHKO).

REVENUE IMPACTS OF CURRENT BILL:

This bill would not impact local government revenues. The removal of local health jurisdictions authority to charge a fee for permitting MHKOs was the only revenue generating mechanism from the previous version for local government.

Sources:

Washington State Association of Local Public Health Officials

House Bill Report, HB 7106, Local Government Committee

House Bill Report, SHB 7106, Local Government Committee

Local Government Fiscal Note, HB1258, (2021)

Local Government Fiscal Note, HB 1706, (2023)