

Multiple Agency Fiscal Note Summary

Bill Number: 5279 SB	Title: Housing equity property
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Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Department of Revenue	(290,000)	(290,000)	(290,000)	(490,000)	(490,000)	(490,000)	(520,000)	(520,000)	(520,000)
Total \$	(290,000)	(290,000)	(290,000)	(490,000)	(490,000)	(490,000)	(520,000)	(520,000)	(520,000)

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		(79,200)		(138,600)		(148,500)
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		(79,200)		(138,600)		(148,500)

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
Joint Legislative Audit and Review Committee	.1	0	0	13,300	.0	0	0	0	.0	0	0	0
Department of Revenue	.1	47,900	47,900	47,900	.0	0	0	0	.0	0	0	0
Total \$	0.2	47,900	47,900	61,200	0.0	0	0	0	0.0	0	0	0

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Joint Legislative Audit and Review Committee	.0	0	0	.0	0	0	.0	0	0
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

Prepared by: Cheri Keller, OFM

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Date Published:
Revised 3/13/2023

Individual State Agency Fiscal Note

Revised

Bill Number: 5279 SB	Title: Housing equity property	Agency: 014-Joint Legislative Audit and Review Committee
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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	0.1	0.0	0.1	0.0	0.0
Account					
Performance Audits of Government Account-State 553-1	13,300	0	13,300	0	0
Total \$	13,300	0	13,300	0	0

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: Riley Bengé	Phone: 360-786-7316	Date: 01/14/2023
Agency Preparation: Dana Lynn	Phone: 360-786-5177	Date: 03/02/2023
Agency Approval: Eric Thomas	Phone: 360 786-5182	Date: 03/02/2023
OFM Review: Gaius Horton	Phone: (360) 819-3112	Date: 03/10/2023

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.

This bill expands a sales and use tax deferral created in 2022 and codified under chapter 82.92 RCW, to include housing equity properties.

TAX PREFERENCE PERFORMANCE STATEMENT

SECTION 6 is a new tax preference performance statement, categorizing the expanded tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

The Legislature's specific public policy objective is to expand affordable housing options for very low to moderate income households, specifically in underdeveloped urban areas and urban areas where a substantial influx of employees related to a small number of very large employers have contributed to a lack of affordable housing.

To measure the effectiveness of the tax preference, JLARC staff must evaluate the number of increased housing units on housing equity property. If a review finds the number of affordable housing units has not increased, then the Legislature intends to repeal the tax preference.

JLARC must submit the review to the fiscal committees of the Legislature by December 31, 2030.

ADDITIONAL BILL CONTENT

SECTION 1 amends the legislative findings in RCW 82.92.005(6) to add that the limited tax deferral will help owner of housing equity property achieve the highest and best use of land and enable cities to more fully realize planning goals and will help ensure limited resources are narrowly focused on affordable housing.

SECTION 2 amends RCW 82.92.007 to add that the purpose of ch. 82.92 is to support investment by regional affordable housing collaborators by maximizing the use of funds directly for affordable housing. Cities may authorize a sales/use tax deferral if they find that it has housing equity property, in addition to other reasons.

SECTION 3 amends RCW 82.92.010(4) to expand the definition of "city" to include a city with housing equity property located in a county that does not plan under the growth management act. RCW 82.92.010(11) is amended to define "housing equity property." RCW 82.92.010(18) is added to define "regional affordable housing collaborative"

SECTIONS 4 and 5 expand RCW 82.92.030 and RCW 82.92.040 to add that an owner of housing equity property can seek a sales & use tax deferral under the chapter, outlines the steps to follow, and notes steps cities follow to approve applications.

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.

This bill expands an existing tax preference that is already in JLARC's future study work plan. However, JLARC staff

would initially reach out to the Department of Revenue after session ends to ensure that future planning for the expanded tax preference includes necessary data collection on properties that would newly qualify for the deferral program.

This audit will require an estimated 1 audit month.

JLARC Audit Months: JLARC calculates its staff resources in "Audit Months" to estimate the time and effort to undertake and complete its studies. An "Audit Month" reflects a JLARC analyst's time for a month, together with related administrative, support, and goods/services costs. JLARC's anticipated 2023-25 costs are calculated at approximately \$22,100 per audit month.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
553-1	Performance Audits of Government Account	State	13,300	0	13,300	0	0
Total \$			13,300	0	13,300	0	0

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1		0.1		
A-Salaries and Wages	8,600		8,600		
B-Employee Benefits	2,700		2,700		
C-Professional Service Contracts					
E-Goods and Other Services	1,800		1,800		
G-Travel	200		200		
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	13,300	0	13,300	0	0

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
Research Analyst	126,694	0.1		0.1		
Support staff	89,671					
Total FTEs		0.1		0.1		0.0

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.

Department of Revenue Fiscal Note

Bill Number: 5279 SB	Title: Housing equity property	Agency: 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 01 - Retail Sales Tax		(290,000)	(290,000)	(490,000)	(520,000)
Total \$		(290,000)	(290,000)	(490,000)	(520,000)

Estimated Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1		0.1		
Account					
GF-STATE-State 001-1	47,900		47,900		
Total \$	47,900		47,900		

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: Riley Bengé	Phone: 60-786-7316	Date: 01/14/2023
Agency Preparation: Beth Leech	Phone: 60-534-1513	Date: 01/19/2023
Agency Approval: Marianne McIntosh	Phone: 60-534-1505	Date: 01/19/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 01/19/2023

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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:

A city with a population of at least 135,000 and not more than 250,000 may create a sales and use tax deferral program for multifamily housing developed on underdeveloped land. This deferral does not apply to housing equity property.

PROPOSAL:

This bill allows cities with a population of at least 135,000 and not more than 250,000, or a city located in a county that does not plan under the growth management act, to include housing equity property in the sales and use tax deferral program for multifamily housing.

Housing equity property means an investment project that is or will be funded through contributions by a regional affordable housing collaborator where the property was initially used as temporary employee housing by the regional affordable housing collaborator.

Regional affordable housing collaborator means a private employer that has established a housing equity property fund to create housing through grants to housing partners such as nonprofit organizations and public entities.

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

- Jurisdictions in 11 counties are eligible to impose the sales and use tax deferral: Adams, Asotin, Cowlitz, Grays Harbor, Klickitat, Ferry, Lincoln, Okanogan, Skamania, Wahkiakum, and Whitman.
- For the purpose of this estimate, construction will begin on one affordable housing apartment building in fiscal year 2025 and another every two years after.
- The average construction cost of a 25-unit apartment building is \$6.25 million.
- U.S. Census data shows that residential buildings with 20 or more units took over 19 months to complete in 2020.
- Construction costs mirror the annual growth for residential construction of multi-family buildings as reflected in the November 2022 IHS Markit forecast.
- Local revenue estimates use the rural average local sales and use tax rate of 1.88%.

POTENTIAL LITIGATION:

Legislation creating new exemptions and deferrals for construction projects presents a risk that the federal government or federal contractors will seek to re-litigate Washington v. United States. This risk increases with each additional exemption or deferral that the state enacts.

The Department of Revenue's (department) legal counsel at the Attorney General's Office has opined that the federal contractor risk applies to all exemptions and deferrals of construction activity, not just construction projects of the type that the federal government is likely to engage in. It also applies even if the exemption or deferral applies to federal construction projects as well as non-federal construction projects.

Sales/use tax exemptions pose the greatest legal risk because they plainly treat the beneficiaries of the exemption more

Request # 5279-1-1

favorably than federal contractors are treated. Sales/use tax deferrals also pose a significant legal risk. Each such exemption or deferral increases the likelihood that the federal government or federal contractors will seek to re-litigate Washington v. United States in which they would claim that Washington now discriminates against federal contractors.

If a legal challenge to a deferral or exemption were successful, in addition to lost future revenues, refunds potentially would be owed under the statutory period (current year plus four previous years). Each year approximately \$90 million is collected on federal government contracting. If refunds were included as part of a potential court decision, the revenue impact could reach nearly \$500 million.

DATA SOURCES

- Office of Financial Management, April 2022 population data.
- Department of Commerce, Growth Management Act data.
- U.S. Census Bureau, Average Length of Time from Start to Completion of New Privately Owned Residential Buildings.
- fixer.com, Apartment Building Price, updated December 13, 2022.
- IHS Markit forecast for the residential construction - multi-family buildings, November 2022

REVENUE ESTIMATES

This bill decreases state revenues by an estimated \$290,000 in fiscal year 2025, and by \$180,000 in fiscal year 2026. This bill also decreases local revenues by an estimated \$80,000 in fiscal year 2025, and by \$50,000 in fiscal year 2026.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2024 -	\$ 0
FY 2025 -	(\$ 290)
FY 2026 -	(\$ 180)
FY 2027 -	(\$ 310)
FY 2028 -	(\$ 190)
FY 2029 -	(\$ 330)

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

FY 2024 -	\$ 0
FY 2025 -	(\$ 80)
FY 2026 -	(\$ 50)
FY 2027 -	(\$ 90)
FY 2028 -	(\$ 50)
FY 2029 -	(\$ 100)

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 one taxpayer per project, with the first beginning in fiscal year 2025

FIRST YEAR COSTS:

The department will incur total costs of \$47,900 in fiscal year 2024. These costs include:

Labor Costs - Time and effort equate to 0.1 FTE.

- Setup, program, and test computer systems for updated deferral language and terms.
- Modify incentive reporting.

Object Costs - \$35,200.

- Contract computer system programming.

SECOND YEAR COSTS:

The department will not incur any costs in fiscal year 2025.

ONGOING COSTS:

There are no ongoing costs.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1		0.1		
A-Salaries and Wages	7,300		7,300		
B-Employee Benefits	2,400		2,400		
C-Professional Service Contracts	35,200		35,200		
E-Goods and Other Services	1,700		1,700		
G-Travel	400		400		
J-Capital Outlays	900		900		
Total \$	\$47,900		\$47,900		

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
MGMT ANALYST4	73,260	0.1		0.1		
Total FTEs		0.1		0.1		

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

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5279 SB	Title: Housing equity property
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- Cities: decrease in sales tax revenue
- Counties: same as above
- Special Districts: same as above
- 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: number of projects that are awarded certification by a city's sale and use deferral program, amount of tax deferrals granted

Estimated revenue impacts to:

Jurisdiction	FY 2024	FY 2025	2023-25	2025-27	2027-29
City		(23,588)	(23,588)	(41,280)	(44,228)
County		(28,996)	(28,996)	(50,742)	(54,367)
Special District		(26,616)	(26,616)	(46,578)	(49,905)
TOTAL \$		(79,200)	(79,200)	(138,600)	(148,500)
GRAND TOTAL \$					(366,300)

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

Estimated expenditure impacts to:

None

Part III: Preparation and Approval

Fiscal Note Analyst: Tammi Alexander	Phone: 360-725-5038	Date: 01/19/2023
Leg. Committee Contact: Riley Bengé	Phone: 360-786-7316	Date: 01/14/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 01/19/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 01/19/2023

Part IV: Analysis

A. SUMMARY OF BILL

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

This legislation would expand the sales and use tax deferral program for underdeveloped lands in urban areas to include "housing equity property" as defined in the bill.

It also modifies the definition of "city" to include a city with housing equity property located in a county that does not plan under the growth management act and adds a definition for "regional affordable housing collaborator."

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 would not impact local government expenditures because no action is required. This legislation would only expand the existing sales and use tax deferral incentive program.

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 would expand the existing sales and use tax incentive program to encourage redevelopment of underdeveloped lands in urban areas to include housing equity property. It is unknown how many additional projects would be granted a sales and use tax deferral by expanding the eligibility criteria as defined in the bill, therefore the actual impact is indeterminate.

According to the Department of Revenue (DOR), this bill decreases local revenues by an estimated \$80,000 in fiscal year 2025, and by \$50,000 in fiscal year 2026. Please see the DOR fiscal note for the assumptions these estimates are based upon and potential litigation information.

LOCAL GOVERNMENT LOSS BREAKDOWN

Counties:

FY 2024	\$0
FY 2025	-\$28,996
FY 2026	-\$18,122
FY 2027	-\$32,620
FY 2028	-\$18,122
FY 2029	-\$36,245

Cities:

FY 2024	\$0
FY 2025	-\$23,588
FY 2026	-\$14,743
FY 2027	-\$26,537
FY 2028	-\$14,743
FY 2029	-\$29,485

Special Districts:

FY 2024	\$0
FY 2025	-\$26,616
FY 2026	-\$16,635
FY 2027	-\$29,943
FY 2028	-\$16,635

METHODOLOGY:

The distributions in this note for cities, counties, and special districts are based on DOR data for local sales and use tax distributions from Calendar Year 2021. Mitigation payments and distributions to hospital benefit zones are not factored into this distribution. The result is a distribution of 36.61 percent to counties, 29.78 percent to cities, and 33.61 percent to special districts. The one percent DOR administrative fee has also been deducted.

SOURCES:

Department of Revenue fiscal note, SB 5279 (2023)

Department of Revenue Local Tax Distributions (2021)

Local Government Fiscal Note program, Local Sales Tax model 2023

Local Government Fiscal Note program, Sales and Use Tax Distribution model 2023

Senate Bill Report, SB 5279, Housing Committee (1/17/2023)