

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 1777 HB	<b>Title:</b> 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						
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.											
<b>Total \$</b>	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	Non-zero but indeterminate cost and/or savings. Please see discussion.								
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.								
<b>Total \$</b>	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	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Other	No fiscal impact								
Local Gov. Total									

### Estimated Capital Budget Breakout

School District Fiscal Note - SPI	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.

<b>Prepared by:</b> Jennifer Masterson, OFM	<b>Phone:</b> (360) 810-0117	<b>Date Published:</b> Final 3/23/2023
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1777 HB	<b>Title:</b> Energy contracting	<b>Agency:</b> 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

<b>Bill Number:</b> 1777 HB	<b>Title:</b> Energy contracting	<b>Agency:</b> SDF-School District Fiscal Note - SPI
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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: Kirti Vijay	Phone: 3607256261	Date: 03/20/2023
Agency Approval: Randy Newman	Phone: 360 725-6267	Date: 03/20/2023
OFM Review: Kelsey Rote	Phone: (360) 000-0000	Date: 03/23/2023



## 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 proposed legislation aims to authorize the use of performance-based contracting for energy services and equipment.

Sec. 1 amends RCW 39.35A.020 to allow payment obligations to include regular service payments made to the owners of energy equipment and services under a performance-based contract.

Sec. 2 amends RCW 39.35C.010 to define “cost-effective”. It is also specified that at the time of contract execution, the value of energy equipment and services owned by a state agency or school district may exceed its fair market value and this must be considered cost-effective. Furthermore, payment obligations by a state agency or school district may now include regular service payments to the entity that owns the energy equipment and services under the performance-based contract.

Sec. 3 amends RCW 39.35C.050 to say that a state agency or school district may act independently to contract for energy equipment or services when the following conditions are met

1. The ownership of energy equipment must be transferred to the person or entity.
2. The person or entity is responsible for cost-savings and performance guarantees during the contract period.
3. At the time of contract execution, the value of energy equipment or services leased by a state agency or school district may exceed its fair market value and this must be considered cost-effective.
4. At the end of the contract, the ownership of energy equipment must be transferred back at no residual value.

Sec. 4 amends RCW 39.35C.060 to include financing contracts as well as performance-based contracts to repay principal and interest or services payments on the contracts.

### 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.*

No impact to local school district’s cash receipts.

### 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 proposed legislation allows the school districts to enter into performance-based contracting for energy equipment and services. This would allow school districts to purchase energy equipment by financing it through the contract. Instead of incurring capital expenditure on the purchase of energy equipment, the school district would finance the purchase through the operating budget. The school district would pay service payments to the entity that owns the energy equipment and provides the services.

It is not viable to estimate the number of school districts that would choose to enter into performance-based contracts for energy equipment and services. Hence, the fiscal impact of the same is not determinate.

## 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 proposed legislation allows the school districts to enter into performance-based contracts to replace energy equipment. This would shift the burden from the capital budget to the operating side. However, it is extremely difficult to estimate the number of school districts that would choose this option. Hence, the fiscal impact on the capital budget of local school districts' is indeterminate.

**Part V: New Rule Making Required**

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

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1777 HB	<b>Title:</b> Energy contracting	<b>Agency:</b> 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:

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- 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.*