

# Judicial Impact Fiscal Note

<b>Bill Number:</b> 1158 HB	<b>Title:</b> Growth mgmt/sup court review	<b>Agency:</b> 055-Admin Office of the Courts
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

Account	FY 2016	FY 2017	2015-17	2017-19	2019-21
Counties					
Cities					
<b>Total \$</b>					

### Estimated Expenditures from:

**Non-zero but indeterminate cost. Please see discussion.**

*The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.*

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.

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## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

The bill would allow cities and counties up to 600,000 in population to adopt local ordinances to proceed with direct review by superior courts.

Section 3 would amend 36.70A.295 RCW to allow counties of up to 600,000 in population to adopt an ordinance for direct review by superior court without review by the hearings board. Once a county has adopted an ordinance, the cities in the county can do the same.

### II. B - Cash Receipts Impact

none

### II. C - Expenditures

There are expected to be potentially large (\$428,000 per fiscal year) expenditure increases for superior courts in counties under 600,000 in population resulting from the changes in the bill. Exact numbers are not possible to predict as the number of filings fluctuates over an eight to 10 year cycle depending on the schedule for each county's plan update and any projects attempted in a county. Numbers provided by the Environmental and Land Use Hearings Office, and the Department of Commerce are statewide and include some cases from the three counties not covered by the bill. Estimates are intended to provide a scale of the potential impacts of the changes in the bill.

Under current statute, the Growth Management Hearings Board can fully resolve some cases, and resolve most elements of other cases prior to appeal to the superior courts (Environmental and Land Use Hearings Office). Removing the intermediate step of the Hearings Board would ensure that all elements of all cases would proceed to court. This would have the effect of increasing the number and complexity of cases heard in superior courts.

Because some percentage of filings are resolved at the hearings board and do not progress to superior court, the removal of the hearings board from the process could increase the number of cases in superior courts. There are also complicated cases heard by the board where all but one or two issues are resolved. Removal of the hearings board step could increase the breadth and size of cases heard by the superior courts, by making the courts the first venue for resolution.

These cases tend to be complicated and lead to lengthy trials. Past court estimates indicate two weeks for trial in superior courts. Not every filing will lead to a trial, some will be dismissed, some settled.

To provide a sense of scale; In the last three calendar years there were 101 cases filed with the board, these were consolidated into 73 cases (Environmental and Land Use Hearings Office). Of those 19 were appealed to superior court. At this time there are 12 hearings boards cases in the courts (Department of Commerce, Growth Management). In several of the cases there were over 100 issues addressed in the petition. After the hearings board completed work, the number of issues were reduced prior to appeal. For example 120 issues reduced to 18 (Department of Commerce, Growth Management).

In a county that has adopted an ordinance requiring direct review by the superior court, there would be no reduction in cases filed that proceed to court.

There are 39 counties in Washington State, 36 could be subject to the bill, these counties contain 206 cities. (King, Pierce, and Snohomish exceed 600,000 in population). All of these counties would have the potential for planning review for critical areas or resource lands. There are 10 counties (containing 62 cities) that plan only for critical areas and resource lands. These are Adams, Asotin, Cowlitz, Grays Harbor, Klickitat, Lincoln, Okanogan, Skamania, Wahkiakum, and Whitman.

Additionally, 29 counties are planning under the GMA. (Department of Commerce, Growth Management) Removing the three largest counties leaves 26 that are fully planning that could adopt an ordinance under the provisions of the bill.

### ESTIMATE BACKGROUND

Using the three year data provided by the Environmental and Land Use Hearings Office, and assuming that all eligible counties adopt an ordinance, as many as 60 petitions per year could be subject to direct appeal at superior court. Of these six per year would be expected to lead to an appeal under current statute. This leaves as many as 54 cases per year that are resolved at the hearings board without

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appeal to superior court. Under the changes in the bill these 54 cases would be expected to start in superior court rather than the hearings board. If half of those cases lead to a trial, there would be twenty-seven additional two-week trials per year for cases that were not expected to go to superior court. This is expected to create new court costs in excess of \$1,200,000 per fiscal year (divided \$986,000 to counties and \$225,000 to the state) for the original petition. These costs are for court time judicial officer time, and support staff. The change in jurisdiction made in the bill would also create a requirement for the courts to perform compliance hearings, if a compliance hearing required four hours of court time, there could be an additional \$121,000 in annual costs. The total estimated impact would be \$1,321,000 per fiscal year in superior courts, except the courts in King, Pierce, and Snohomish counties.

**Part III: Expenditure Detail**

**Part IV: Capital Budget Impact**