

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5449 P SB	<b>Title:</b> Appeals court tax division	<b>Agency:</b> 048-Court of Appeals
-------------------------------	--	-------------------------------------

## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT	FY 2016	FY 2017	2015-17	2017-19	2019-21
General Fund-State 001-1				424,100	424,100
<b>Total \$</b>				424,100	424,100

### Estimated Expenditures from:

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years	0.0	17.0	8.5	17.0	16.5
<b>Account</b>					
General Fund-State 001-1	0	1,112,347	1,112,347	4,109,390	4,109,390
<b>Total \$</b>	0	1,112,347	1,112,347	4,109,390	4,109,390

### 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: Juliana Roe	Phone: (360) 786-7438	Date: 03/30/2015
Agency Preparation: Kitty Hjelm	Phone: 360-704-5528	Date: 04/01/2015
Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date: 04/01/2015
OFM Review:	Phone:	Date:

## Part II: Narrative Explanation

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

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

PSB 5449 (S-2683) differs from SB 5449 as follows.

PSB 5449:

- requires a tax appeals division of the court of appeals headquartered in Olympia;
- establish a small claims division within the commissioner department;
- requires a voluntary mediation process for small claims in the commissioner department;
- allows for the tax appeal division to stay the payment of disputed taxes: (1) for \$500,000 or less through June 30, 2019; (2) for \$750,000 or less from July 1, 2019 through June 30, 2023; (3) for \$1 million or less from July 1, 2023 through June 30, 2027; and (4) for any amount beginning July 1, 2027.

PSB 5449 would create a new tax appeal division of the court of appeals.

Sections with court of appeals impact:

Section 102 would amend RCW 2.06.020 to create a new tax appeals division in the court of appeals located in Olympia.

Section 102(4) would require the tax appeal division to have three new judges, one for each of the existing court of appeals divisions. The tax appeal division may hold hearings in any location in the state. The county clerk or board of county commissioners would provide the rooms for the hearings.

Section 103 is a new section added to RCW 2.06 that would require the new tax appeal division to have two departments, the main department and the commissioner department.

The main department would consist of the three judges who may individually hear and decide tax appeals except for en banc proceedings that must be heard by a three judge panel. The judges would hear appeals that involve complex issues, issues of substantial public importance, or issues that require expertise beyond a commissioner's proficiency. The commissioner department would hear all appeals that are not initially heard by the main department.

Section 103(2)(a) would require the judges of the main department to appoint one or more individuals to sit as commissioners at locations within the state.

Section 103(2)(b) would establish a small claims division of the commissioner department.

Section 105 (3) would require the final decisions of the main department of the tax appeal division to be given in writing and would be published as opinions of the court. The decisions of the main department in proceedings before a single judge would be subject to discretionary review by the supreme court in the same manner as the decisions of other divisions of the court of appeals. The parties to an en banc decision would have a right of appeal to the supreme court.

Section 105 (5) would require the final decisions of the commissioner department to be rendered in writing, and to be made readily available for online research but they would not be published as opinions of the tax appeal

division and would not be cited or relied upon as precedent. Reviews of decisions by the commissioner department would be by petition to the main department.

Section 109 would require all proceedings before the tax appeal division to be original, independent proceedings and to be tried without a jury and de novo. Except as provided in RCW 84.40.0301, in all appeals to the tax appeal division, the decision appealed from is presumed correct, and the appellant has the burden of proving otherwise by a preponderance of the evidence. The tax appeal division would be given such procedural powers and authority as necessary to the full exercise of its jurisdiction, including the power to issue compulsory process as provided by court rule. The tax appeal division would have jurisdiction to hear all tax appeals currently heard by the Board of Tax Appeals.

Section 111 would require an appeal to the tax appeal division to be initiated by the filing of a notice of appeal as provided by court rule. The notice of appeal would be filed with the tax appeal division within ninety days after receipt of the tax determination being appealed.

Upon filing a notice of appeal to the main department of the tax appeal division, the appellant would pay a fee in the amount of \$250. Upon filing a notice of appeal to the commissioner of the tax appeal division, the appellant would pay a fee in the amount of \$50.00.

Section 226 would require the state board of tax appeals to be transferred to the tax division of the court of appeals. All funds, credits, or other assets held by the state board of tax appeals would be assigned to the tax division of the court of appeals.

Any appropriations made to the state board of tax appeals would be transferred and credited to the tax division of the court of appeals.

All employees of the state board of tax appeals are transferred to the jurisdiction of the tax division of the court of appeals to perform their usual duties.

All rules and all pending business before the state board of tax appeals would be continued and acted upon by the tax division of the court of appeals. All existing contracts and obligations would remain in full force and would be performed by the tax division of the court of appeals.

Section 301 would require the transfer of the state board of tax appeals to the tax division of the court of appeals to occur on July 1, 2017.

## **II. B - Cash receipts Impact**

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

Section 111(2) would require a person to pay a fee in the amount of \$250 upon filing a notice of appeal to the main department of the tax appeal division.

Section 111(3) would require a person to pay a fee in the amount of \$50.00 upon filing a notice of appeal to the commissioner of the tax appeal division.

Using the Board of Tax Appeals fiscal year 2013 number of formal appeals and informal appeals, and assuming that formal appeals would be filed with the main division of the division of tax appeals and the informal appeals

would be filed with the commissioner department, the following calculations are used to estimate potential revenue for Section 111:

221 formal tax appeals in fiscal year 2013 x \$250 = \$55,250 per year  
3136 informal tax appeals in fiscal year 2013 x \$50 = 156,800 per year

It is assumed the filing fees would be collected by the tax division of the court of appeals and deposited in the state general fund.

Section 301 would require the transfer of the state board of tax appeals to the tax division of the court of appeals to occur on July 1, 2017. Therefore, the tax division of the court of appeals would begin receiving notice of appeal filing fees in fiscal year 2018.

## **II. C - Expenditures**

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

Section 102(4) would require the court of appeals tax appeal division to have three new judges.

Current court of appeals judge salary is \$164,238 per year and estimated benefits are \$38,130 for a total of \$202,368 per year per judge in salaries and benefits. The total annual salary and benefit cost for three new judges would be \$607,104.

Each judge would require a judicial administrative assistant and two law clerks.

Current court of appeals judicial administrative assistant annual salary is \$53,148 and estimated benefits are \$17,323 for a total of \$211,416 in salaries and benefits per year for three new judicial administrative assistants.

Current court of appeals law clerk annual salary is \$48,168 and estimated benefits are \$16,484 for a total of \$387,912 in salaries and benefits per year for six new law clerks.

Section 103(2)(a) would require the judges of the main department to appoint one or more individuals to sit as commissioners at locations within the state.

Current court of appeals commissioner salary is \$120,984 per year and estimated benefits are \$28,761 for a total of \$149,745 per year for one commissioner. Assuming there would be at least four commissioners appointed, one for each court of appeals division and one for headquarters in Olympia, the total salaries and benefits would be \$598,980 per year for four new commissioners.

Section 102 requires the tax division of the court of appeals to be headquartered in Olympia. It is estimated that office space lease costs would be \$80,000 per year, operational costs (central services charges, phones, postage, copier costs, etc.) would be \$83,000 per year and a receptionist salaries and benefits would be \$52,283 per year. Total estimated Olympia headquarters costs would be \$215,283 per year.

Total FTE for the new tax division court of appeals would be 17.

Average on-going employee goods and services and travel per FTE is \$2000.

17 FTE x \$2000 = \$34,000

Average one time set up costs (computer, chair, etc.) per FTE is \$5000.

17 FTE x \$5000 = \$85,000

Section 224 would allow the three new judges for the tax division to take any action necessary to enable them to properly exercise the duties, functions, and powers given the tax division of the court of appeals as of February 1, 2017. Therefore, it is assumed that all costs to operate the headquarters office and the FTE salaries, benefits and costs would start the last six months of fiscal year 2017.

### Part III: Expenditure Detail

#### III. A - Expenditures by Object Or Purpose

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years		17.0	8.5	17.0	16.5
A-Salaries and Wages		731,361	731,361	2,925,444	2,925,444
B-Employee Benefits		197,486	197,486	789,946	789,946
C-Professional Service Contracts					
E-Goods and Other Services		98,500	98,500	394,000	394,000
G-Travel					
J-Capital Outlays		85,000	85,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total:</b>	\$0	\$1,112,347	\$1,112,347	\$4,109,390	\$4,109,390

#### III. B - 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 2016	FY 2017	2015-17	2017-19	2019-21
Court of Appeals Commissioner	120,984		4.0	2.0	4.0	4.0
Court of Appeals Judge	164,238		3.0	1.5	3.0	3.0
Judicial Administrative Assistant	53,148		3.0	1.5	3.0	3.0
Law Clerk	48,168		6.0	3.0	6.0	6.0
Receptionist	37,620		1.0	0.5	1.0	0.5
<b>Total FTE's</b>	424,158		17.0	8.5	17.0	16.5

### Part IV: Capital Budget Impact

NONE

### Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*