

Judicial Impact Fiscal Note

Bill Number: 5866 E 2S SB	Title: Tax court, creating	Agency: 055-Administrative Office of the Courts
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2018	FY 2019	2017-19	2019-21	2021-23
General Fund-State 001-1	24,250	48,500	72,750	97,000	97,000
Counties					
Cities					
Total \$	24,250	48,500	72,750	97,000	97,000

Estimated Expenditures from:

STATE	FY 2018	FY 2019	2017-19	2019-21	2021-23
State FTE Staff Years		12.0	6.0	24.0	24.0
Account					
General Fund-State 001-1		1,625,772	1,625,772	6,023,086	6,023,086
State Subtotal \$		1,625,772	1,625,772	6,023,086	6,023,086
COUNTY	FY 2018	FY 2019	2017-19	2019-21	2021-23
County FTE Staff Years					
Account					
Local - Counties					
Counties Subtotal \$					
CITY	FY 2018	FY 2019	2017-19	2019-21	2021-23
City FTE Staff Years					
Account					
Local - Cities					
Cities Subtotal \$					
Local Subtotal \$					
Total Estimated Expenditures \$		1,625,772	1,625,772	6,023,086	6,023,086

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). A fiscal analysis was prepared to show the projected ten-year cost to tax or fee payers of the proposed taxes or fees. The ten-year projection can be viewed at

<http://www.ofm.wa.gov/tax/default.asp>

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.

Contact	Phone:	Date: 05/03/2017
Agency Preparation: Renee Lewis	Phone: 360-704-4012	Date: 05/04/2017
Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date: 05/04/2017
OFM Review:	Phone:	Date:

Request # 5866 E2SSB-1

Part II: Narrative Explanation

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

Changes from the second substitute bill:

Section 111 would be changed to state that the tax court must have two physical locations: One in a city east of the Cascade mountains with a population greater than two hundred thousand persons; and one in a city west of the Cascade mountains that is the state capital. An additional location may be added, if required due to the volume of cases.

Second Substitute bill:

This bill would add a new chapter to RCW Title 2.

Section 102 would establish a new tax court in Washington, which would be an independent court of record with statewide jurisdiction. The tax court would consist of one judge selected from each division of the court of appeals and such commissioners as are appointed by the tax court.

Section 104 would establish two departments of the court - a main department and a commissioner department of the court. (1)(a) The main department would consist of three judges. Each judge would hear cases as an individual, except for those cases that must be heard by a three-judge panel. (c) would have the three-judge panels hear both original tax appeal cases and appeals of decisions made by individual tax court judges. Three-judge panels would also hear appeals from a decision of the superior court and from the commissioners. (e) States that every cause submitted to the main department of the tax court must be decided within six months from the submission thereof. The court may extend the six-month period, for good cause, up to three additional months. (2) The commissioner department would be an informal option for appeals and would hear all appeals that are not heard initially by the main department or a three-judge panel.

Section 105 states (1) The tax court must adopt rules for the administration and procedures of the court. (2) The Supreme Court may assign a judge of the tax court to serve as a judge pro tem of the court of appeals. (3) All decisions by the main department would be precedential until reversed, modified, or overruled by the supreme court or a three-judge panel of the tax court. The final decisions of the main department of the tax court must be published. Decisions of a three-judge panel and decisions by a single judge of the main department that are not reviewed by a three-judge panel are subject to review by the Supreme Court. (5) The final decisions of the commissioner department must be in writing and available for electronic research but are not citable as published opinions. The commissioners' decisions would be appealable only to the main department of the tax court.

Section 106(2) would establish the salary for the judges to be the same as a court of appeals judge.

Section 108 (1) states that all proceedings before the tax court, except as provided below, would be original proceedings and tried de novo without a jury. (4) states that the tax court would have concurrent original jurisdiction with the superior court in hearing appeals and exclusive jurisdiction of superior court decisions to decide tax appeals. 5(a) states that the taxpayer has the right to have his or her case heard by the tax court prior to the payment of any of the amounts asserted as due by the tax administration agency and prior to the posting of any bond. (5)(b)(iv) states that every year, the AOC must review the dollar threshold for certain types of appeals and adjust the amount for inflation.

Section 109 would set the filing fee for appeals to the main department at \$250. The filing fee for appeals to the commissioner department would be \$50.

Section 111 would be changed to state that the tax court must have two physical locations: One in a city east of the Cascade mountains with a population greater than two hundred thousand persons; and on in a city west of the Cascade mountains with a population greater than six hundred fifty thousand persons. An additional location may be added, if required due to the volume of cases.

Section 228 would abolish the Board of Tax Appeals. All classified employees of the BTA would be assigned to the tax court. All cases of the BTA would be transferred to the tax court.

Section 302 states that the act would take effect on January 1, 2018. The BTA would be abolished July 1, 2019. The first election of the judges would be in the general election in 2018. Beginning February 1, 2019, judges would be able to take actions necessary to help with the establishment of the tax court.

Request # 5866 E2SSB-1

II. B - Cash Receipts Impact

Section 109 would set the filing fee for appeals to the main department at \$250. The filing fee for appeals to the commissioner department would be \$50.

Using the Board of Tax Appeals fiscal year 2016 numbers for formal and informal appeals and assuming that formal appeals would be filed with the main division of the tax court and the informal appeals would be filed with the commissioner department, the following calculations are used to estimate potential revenue.

28 formal tax appeals in fiscal year 2016 X \$250 = \$7,000

830 informal tax appeals in fiscal year 2016 X \$50 = \$41,500

It is assumed that fees would not be collected until January 1, 2019.

II. C - Expenditures

This analysis estimate represents the gross cost of the new court and does not account for any savings attained from the abolishment of the board of tax appeals. In addition, the numbers in the grid do NOT reflect any potential costs associated with either modification or implementation of a case management system or additional facility costs.

Section 102 would change the number of judges in the proposed new tax court from one per district to one per division of the court of appeals. There are three divisions therefore, it is assumed that there would be three elected judges. Section 106(2) states that the tax court judges would receive the same compensation as the court of appeals judges authorized in RCW 2.06. Their current salary is \$174,244 per year and estimated benefits are \$48,312 for a total of \$222,556 per year per judge. The total annual salary and benefit cost for three new judges would be \$667,668. Additional travel costs must be considered for two purposes. First, some appeals must be heard by a three judge panel which implies that two judges would be required to travel to the court where the appeal is heard. Because Section 111 designates two locations for courts, it is assumed that the tax court judges will be allowed to use RCW 2.06.064 to provide for the reimbursement of work related travel expenses from a judge's customary residence to the division headquarters of the court and back. It is estimated that each judge would need an allowance of \$1,500 per month. Total travel expenses would be \$54,000.

Each judge with the court of appeals has a judicial administrative assistant and two law clerks. The assumption is that each judge with the tax court would also require the same staff. The current court of appeals judicial administrative assistant annual salary is \$58,548 and benefits are \$22,169 for a total of \$80,717 per assistant. The estimated annual cost for three judicial administrative assistants is \$242,151. The current court of appeals law clerk annual salary is \$50,496 and benefits are \$20,653 for a total of \$71,149 for each law clerk. The estimated annual cost for six law clerks is \$426,894.

The current court of appeals commissioner annual salary is \$126,792 and benefits are \$35,020 for a total annual cost of \$161,812. The assumption is that there would be at least one commissioner per judge so the total annual cost for three commissioners is \$485,436.

In addition to the above FTEs, the tax court will require a court administrator, receptionist, court reporter and case manager. The current court of appeals court administrator annual salary is \$124,620 and benefits are \$34,963 for a total annual cost of \$159,583. The assumption is that only one court administrator would be needed for the judges. The current salary for a receptionist is \$38,544 and benefits are \$18,330 for a total annual cost of \$56,874. The total annual cost for two receptionists is \$113,748. The current salary for a case manager and court reporter is \$53,016 and benefits \$21,056 for a total annual cost per position of \$74,072. The total cost for two case managers and two court reporters is \$296,288.

Total FTE for all judges and staff 24 and the total annual salary and benefits would total \$2,569,844. Average set up cost per FTE is \$5,000 for an additional cost of \$120,000 (\$5,000 x 24). On-going employee goods and services and travel per FTE is \$2,000. This would add \$48,000 to the cost (\$2,000 x 24).

Section 111 states that the tax court must have two physical locations: One in a city east of the Cascade mountains with a population greater than two hundred thousand persons; and one in a city west of the Cascade mountains that is the state capital. An additional location may be added, if required due to the volume of cases. Based on the proposed legislation, it is assumed there will be a court in Olympia and one in Spokane. Therefore, the cost for rent, utilities and parking for three courts must be considered. The space currently used by the board of tax appeals is 4,400 feet and has space for the board and court room. For purposes of this analysis, it is assumed each facility should be 10,000 square feet. LoopNet.com was used to calculate the average cost per square foot. The cost to lease office space in Olympia (does not include parking) is \$18.51 per square foot for an annual cost of \$185,100. The cost to lease office

space in Spokane (does not include parking) is \$15.46 per square foot for an annual cost of \$154,600.

Sec. 228 states that the board of tax appeals would be abolished. It is assumed that the board of tax appeals will prepare the negative fiscal impact of the legislation. All cases of the board of tax appeals would be transferred to the tax court.

It is assumed that a portion of the board of tax appeals budget would be transferred to the new tax court and a portion to the Administrative Office of the Courts. It is also assumed that all facility, budget, accounting, payroll, web, desktop and other administrative activities for the tax court would be handled by the Administrative Office of the Courts. Currently, it is estimated that a 0.5 FTE financial analyst 2 and a 0.5 FTE information technology specialist 1 would be needed. The salary for a half time ITS2 position is \$27,063 and the benefits are \$18,614 for total annual cost of \$45,677. The salary for a half time FA2 position is \$27,864 and the benefits are \$18,836 for total annual cost of \$46,700. In addition, based on information from the board of tax appeals, their educational materials consist of a 14th edition of Appraisal of Real Estate. They have hardbound case reports for Washington through 2012. They have no other research materials other than their Lexis subscription. It is assumed updated materials would need to be acquired and that providing training and implementation materials to the court would require one full time educator and could take at least a year to implement, depending on the project. It is assumed the need for this position would be ongoing. The annual salary for a court educator is \$61,884 and benefits are \$23,814 for a total annual cost for salary and benefits of \$85,698.

Based on information from the board of tax appeals, their case management system is antiquated and was programmed just for their agency. While it cannot work with any other system, it can be exported to an Access database. They also note that in case matters, they are not in compliance with most OCIO standards for statewide networks so it is unlikely that they have hardware or software that can be transferred. Because this is a new type of court, the judges would be required to develop and implement court rules and procedures. These would need to be established before it could be determined whether one of the case management systems AOC is currently deploying would work or whether a new system would need to be developed. In addition, the system would need to share data with other court systems. It is assumed that AOC, at a minimum, would have to create information and documentation, including potential on-line materials and manuals for a new system. AOC is unable to quantify the cost for a new or revised case management IT system and for the educational costs associated with it.

Section 302 states that the act would take effect on January 1, 2018. The board of tax appeals would be abolished July 1, 2019. The first election of the judges would be in the general election in 2018 and they would be sworn in during January 2019. Beginning February 1, 2019, judges would be able to take actions necessary to help with the establishment of the tax court. Therefore, the costs associated with the salaries and benefits of the tax court personnel would not begin until January 1, 2019. The cost of salaries and benefits and set up costs for the 2017-2019 biennium would be for six months. That cost would be \$1,625,772 (see attached spreadsheet). This does not include costs for any case management systems, software or hardware that will be needed.

NOTE: All costs displayed are estimates. Additional staff, facility, information technology and other costs may be required.

Part III: Expenditure Detail

III. A - Expenditure By Object or Purpose (State)

<i>State</i>	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years		12.0	6.0	24.0	24.0
Salaries and Wages		956,156	956,156	3,824,622	3,824,622
Employee Benefits		328,766	328,766	1,315,064	1,315,064
Professional Service Contracts					
Goods and Other Services		313,850	313,850	775,400	775,400
Travel		27,000	27,000	108,000	108,000
Capital Outlays					
Inter Agency/Fund Transfers					
Grants, Benefits & Client Services					
Debt Service					
Interagency Reimbursements					
Intra-Agency Reimbursements					
Total \$		1,625,772	1,625,772	6,023,086	6,023,086

III. B - Expenditure By Object or Purpose (County)

<i>County</i>	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years					
Salaries and Benefits					
Capital					
Other					
Total \$					

III. C - Expenditure By Object or Purpose (City)

<i>City</i>	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years					
Salaries and Benefits					
Capital					
Other					
Total \$					

III. D - FTE Detail

Job Classification	Salary	FY 2018	FY 2019	2017-19	2019-21	2021-23
Case Manager	53,016		1.0	0.5	2.0	2.0
Commissioner	126,792		1.5	0.8	3.0	3.0
Court Administrator	124,620		0.5	0.3	1.0	1.0
Court Educator	61,884		0.5	0.3	1.0	1.0
Court of Appeals Judge	174,244		1.5	0.8	3.0	3.0
Court Reporter	53,016		1.0	0.5	2.0	2.0
Financial Analyst 2	55,728		0.3	0.1	0.5	0.5
Information Technology Specialist	54,126		0.3	0.1	0.5	0.5
1						
Judicial Assistant	58,548		1.5	0.8	3.0	3.0
Law Clerk	50,496		3.0	1.5	6.0	6.0
Receptionist	38,544		1.0	0.5	2.0	2.0
Total FTE's	851,014		12.0	6.0	24.0	24.0

Part IV: Capital Budget Impact



Ten-Year Analysis

Bill Number 5866 E 2S SB	Title Tax court, creating	Agency 055 Administrative Office of the Courts
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

No Cash Receipts

 Partially Indeterminate Cash Receipts

 Indeterminate Cash Receipts

Estimated Cash Receipts

Name of Tax or Fee	Acct Code	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022	Fiscal Year 2023	Fiscal Year 2024	Fiscal Year 2025	Fiscal Year 2026	Fiscal Year 2027	2018-27 TOTAL
Filing Fee	001	24,250	48,500	48,500	48,500	48,500	48,500	48,500	48,500	48,500	48,500	460,750
Total		24,250	48,500	48,500	48,500	48,500	48,500	48,500	48,500	48,500	48,500	460,750
Biennial Totals		72,750		97,000		97,000		97,000		97,000		460,750

Narrative Explanation (Required for Indeterminate Cash Receipts)

Section 109 would set the filing fee for appeals to the main department at \$250. The filing fee for appeals to the commissioner department would be \$50.

Using the Board of Tax Appeals fiscal year 2016 numbers for formal and informal appeals and assuming that formal appeals would be filed with the main division of the tax court and the informal appeals would be filed with the commissioner department, the following calculations are used to estimate potential revenue.

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It is assumed that fees would not be collected until January 1, 2019.

Agency Preparation: Renee Lewis	Phone: 360-704-4012	Date: 5/4/2017 1:38:56 pm
Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date: 5/4/2017 1:38:56 pm
OFM Review:	Phone:	Date: