S-3825.1

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**SENATE BILL 6405**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senators Wagoner, Miloscia, Fortunato, Schoesler, Braun, Brown, Short, Becker, Padden, and Wilson

AN ACT Relating to fiscal notes for supreme court decisions; and amending RCW 43.88A.010, 43.88A.020, 43.88A.030, 43.132.020, 43.132.040, 43.132.800, 43.132.810, and 28A.300.0401.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 43.88A.010 and 1977 ex.s. c 25 s 1 are each amended to read as follows:

The legislature hereby recognizes the necessity of developing a uniform and coordinated procedure for determining the expected fiscal impact of supreme court decisions and legislative bills and resolutions on state government. The legislature also recognizes that developing such statements of fiscal impact, which shall be known as fiscal notes, requires the designation of a state agency to be principally responsible therefor.

**Sec.**  RCW 43.88A.020 and 2011 c 140 s 1 are each amended to read as follows:

(1)(a) The office of financial management shall, in cooperation with appropriate legislative committees and legislative staff, establish a procedure for the provision of fiscal notes on the expected impact of bills and resolutions which increase or decrease or tend to increase or decrease state government revenues or expenditures. Such fiscal notes shall indicate by fiscal year the impact for the remainder of the biennium in which the bill or resolution will first take effect as well as a cumulative forecast of the fiscal impact for the succeeding four fiscal years. Fiscal notes shall separately identify the fiscal impacts on the operating and capital budgets. Estimates of fiscal impacts shall be calculated using the procedures contained in the fiscal note instructions issued by the office of financial management.

(b) The office of financial management shall, in consultation with the administrative office of the courts, establish a procedure for the provision of fiscal notes estimating the impact of Washington state supreme court decisions that increase or decrease or tend to increase or decrease state and local government revenues or expenditures. The fiscal note must identify when a supreme court decision as explained in a published opinion imposes new or different levels of service that are not currently provided by the government. Supreme court decisions with discrete impact to a person, family, business, or property that are likely to have impacts of less than five hundred thousand dollars on any state or local government agency do not need to be created yet may be created if the amount is a significant portion of a state or local government's total budget. The fiscal notes shall indicate by fiscal year the impact for the remainder of the biennium in which the opinion will first take effect as well as a cumulative forecast of the fiscal impact for the succeeding four fiscal years. Fiscal notes shall separately identify the fiscal impacts on the operating, capital, and transportation budgets, and provide a general understanding of expected impacts on local governments in a manner similar to the one established in RCW 43.132.020. Estimates of fiscal impacts shall be calculated using the procedures contained in the fiscal note instructions issued by the office of financial management.

(2) In establishing the fiscal impact called for pursuant to this chapter, the office of financial management shall coordinate the development of fiscal notes with all state agencies affected.

(3) The preparation and dissemination of the ongoing cost projections and other requirements of RCW 43.135.031 for bills increasing taxes or fees shall take precedence over fiscal notes.

(4) For proposed legislation that uniquely affects school districts, in addition to any fiscal note prepared under this chapter, a school district fiscal note must be prepared under the process established in RCW 28A.300.0401.

**Sec.**  RCW 43.88A.030 and 2008 c 1 s 4 are each amended to read as follows:

(1)(a) When a fiscal note is prepared and approved as to form, accuracy, and completeness by the office of financial management, which depicts the expected fiscal impact of a bill or resolution, copies shall be filed immediately with:

((~~(1)~~)) (i) The chairperson of the committee to which the bill or resolution was referred upon introduction in the house of origin;

((~~(2)~~)) (ii) The senate committee on ways and means, or its successor; and

((~~(3)~~)) (iii) The house committees on revenue and appropriations, or their successors.

(b) Whenever possible, such fiscal note and, in the case of a bill increasing taxes or fees, the cost projection and other information required under RCW 43.135.031 shall be provided prior to or at the time the bill or resolution is first heard by the committee of reference in the house of origin.

(c) When a fiscal note has been prepared for a bill or resolution, a copy of the fiscal note shall be placed in the bill books or otherwise attached to the bill or resolution and shall remain with the bill or resolution throughout the legislative process insofar as possible. For bills increasing taxes or fees, the cost projection and other information required by RCW 43.135.031 shall be placed in the bill books or otherwise attached to the bill or resolution and shall remain with the bill or resolution throughout the legislative process insofar as possible.

(2) When a fiscal note is prepared and approved as to form, accuracy, and completeness by the office of financial management, which depicts the expected fiscal impact of a supreme court decision, copies shall be filed immediately with:

(a) The fiscal committees of the legislature with jurisdiction of any state fund or account impacted by the decision;

(b) The committees of the legislature with jurisdiction of the supreme court; and

(c) Prompt reporting by public press release via email to each justice of the supreme court, the state court administrator, each member of the house of representatives, each member of the senate, the news media, and the public. The office of financial management must post and maintain these releases on its web site. A person on the notification list in this subsection (2)(c) may request to not receive the notifications.

**Sec.**  RCW 43.132.020 and 2011 c 140 s 2 are each amended to read as follows:

The director of financial management or the director's designee shall, in cooperation with appropriate legislative committees and legislative staff, establish a mechanism for the determination of the fiscal impact of supreme court decisions and proposed legislation which if enacted into law would directly or indirectly increase or decrease revenues received or expenditures incurred by counties, cities, towns, or any other units of local government. For purposes of this section, "unit of local government" includes school districts to the extent that the proposed legislation affects school districts in the same manner as it affects other units of local government. Where proposed legislation uniquely affects school districts, a school district fiscal note must be prepared under the process established in RCW 28A.300.0401. The office of financial management shall, when requested by a member of the state legislature, report in writing as to such fiscal impact and said report shall be known as a "fiscal note".

Such fiscal notes shall indicate by fiscal year the total impact on the local governments involved for the first two years the legislation would be in effect and also a cumulative six year forecast of the fiscal impact. Where feasible and applicable, the fiscal note also shall indicate the fiscal impact on each individual county or on a representative sampling of cities, towns, or other units of local government.

A fiscal note as defined in this section shall be provided only upon request of any member of the state legislature. A request for a fiscal note on legislation shall be considered to be a continuing request for a fiscal note on any formal alteration of the legislation in the form of amendments to the legislation that are adopted by a committee or a house of the legislature or a substitute version of such legislation that is adopted by a committee and preparation of the fiscal note on the prior version of the legislation shall stop, unless the legislator requesting the fiscal note specifies otherwise or the altered version is first adopted or enacted in the last week of a legislative session.

Fiscal notes shall be completed within one week of the request unless a longer time period is allowed by the requesting legislator. In the event a fiscal note has not been completed within one week of a request, a daily report shall be prepared for the requesting legislator by the director of financial management which report summarizes the progress in preparing the fiscal note. If the request is referred to the director of commerce, the daily report shall also include the date and time such referral was made.

**Sec.**  RCW 43.132.040 and 2000 c 182 s 3 are each amended to read as follows:

When a fiscal note is prepared and approved as to form and completeness by the director of financial management, the director shall transmit copies immediately to:

(1) The requesting legislator;

(2) With respect to proposed legislation held by the senate, the chairperson of the committee which holds or has acted upon the proposed legislation, the chairperson of the ways and means committee or equivalent committees with jurisdiction over matters normally considered by a ways and means committee, the chairperson of the local government committee or equivalent committee that considers local government matters, and the secretary of the senate; ((~~and~~))

(3) With respect to proposed legislation held by the house of representatives, the chairperson of the committee which holds or has acted upon the proposed legislation, the chairpersons of the ways and means committee or equivalent committees with jurisdiction over matters normally considered by a ways and means committee, the chairperson of the local government committee or equivalent committee that considers local government matters, and the chief clerk of the house of representatives; and

(4) With respect to a supreme court decision, the people identified in RCW 43.88A.030(2).

**Sec.**  RCW 43.132.800 and 2000 c 182 s 5 are each amended to read as follows:

(1) The office of financial management, in consultation with the department of ((~~community, trade, and economic development~~)) commerce, shall annually prepare a report on the fiscal impacts to counties, cities, towns, and other units of local governments, arising from selected laws enacted in the preceding five-year period. The office of financial management, in consultation with the department of ((~~community, trade, and economic development~~)) commerce, shall annually select up to five laws to include within this report from a recommended list of laws approved by the legislature. The office of financial management, in consultation with the department of ((~~community, trade, and economic development~~)) commerce, may select up to five laws to include within this report if the legislature does not approve a recommended list. The office of financial management may include up to five supreme court decisions within this report.

(2) The preparation of the reports required in subsection (1) of this section is subject to available funding.

**Sec.**  RCW 43.132.810 and 2000 c 182 s 6 are each amended to read as follows:

The office of financial management, in consultation with the department of ((~~community, trade, and economic development~~)) commerce, shall prepare a report for the legislature on or before December 31st of every even-numbered year on local government fiscal notes, and reports on the fiscal impacts on local governments arising from selected laws and supreme court decisions, that were prepared over the preceding two-year period.

**Sec.**  RCW 28A.300.0401 and 2011 c 140 s 3 are each amended to read as follows:

(1) The office of the superintendent of public instruction shall, where it is practicable to do so within available resources, prepare school district fiscal notes on supreme court decisions and proposed legislation that increases or decreases, or tends to increase or decrease, school district revenues or expenditures in a manner that uniquely affects school districts. Proposed legislation or a supreme court decision that uniquely affects school districts includes, but is not limited to, legislation and supreme court decisions that affect((~~s~~)) school districts' responsibilities as providers of educational services under this title, as employers under chapter 41.59 RCW, or as excess levy taxing authorities under RCW 84.52.053 and 84.52.0531, but excludes proposed legislation or a supreme court decision that affects school districts only in the same manner that it affects other units of local government.

(2) Where practicable, the school district fiscal note shall show the fiscal impact of the supreme court decision or proposed legislation on each school district. Where it is not practicable to do so, the school district fiscal note shall show the effect of the legislation on a range of representative school districts. The fiscal note must set forth any assumptions that were used in selecting the representative districts, along with any other assumptions made about the fiscal impact.

(3) School district fiscal notes prepared under this section are subject to coordination by the office of financial management under RCW 43.88A.020 and are otherwise subject to the requirements and procedures of chapter 43.88A RCW.

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