

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1494 HB	<b>Title:</b> Improving the effectiveness of water bank and exchange provisions.	<b>Agency:</b> 461-Department of Ecology
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## Part I: Estimates

☒ No Fiscal Impact

*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.

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## 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.*

Background: The statewide trust water rights statute was amended in 2003 to provide authorization for the Department of Ecology to use the trust program for water banking purposes in the Yakima River Basin. This left some ambiguity about whether water banking could occur in areas outside of the Yakima River Basin.

Under current law the Department of Ecology provides technical assistance to the Yakima Basin water bank as needed and must submit a report to the legislature every even numbered year that details the effectiveness of water banking under the law, describe statutory, regulatory or other impediments to water banking in the state, and make recommendations for future efforts.

This bill would authorize the establishment of water banks statewide and allow the Department of Ecology to use the trust water rights program for water banking purposes statewide. The department assumes that this bill would not impose new workloads upon Ecology and that technical assistance would be provided to any newly established banks within existing resources. Thus, there would be no fiscal impact for Ecology. Impacts by section are as follows:

Section 1 - Would provide legislative findings and declare that water banks may be established statewide, that the effectiveness of water banks and exchange provisions would be improved, and that use of interlocal cooperation would establish watershed management partnerships for water banking purposes.

Section 2 - Would amend 90.42.100 RCW to authorize use of the trust water rights program for water banking purposes statewide, not just in the Yakima River basin. It would allow public agencies as defined by chapter 39.34.020 RCW to enter into interlocal agreements with the department to form watershed management partnerships for the purpose of establishing and operating a local water bank under the state trust water rights program. It would direct the department to invite any federally recognized Indian tribe to be covered by the water bank and be party to the interlocal agreement. It would also direct that nothing in this section may be interpreted to preclude use of the department's existing authority. It would authorize a water bank to perform lawful functions necessary to carry out purposes of the chapter and to establish a revolving fund.

Section 3 - Would amend 39.34.200 RCW to authorize public agencies to enter into agreements with Ecology to form watershed management partnerships for the purpose of establishing and operating a local water bank.

Section 4 - Would authorize Ecology to recover costs incurred for water service contracts with federal agencies from persons withdrawing water or credits from the water bank or the water bank as a condition of the exercise of a water rights supplied from a federal water project. The agency would function as an intermediary for this process by paying the Federal Government for water put into the bank, and then billing the persons withdrawing water or credits from the bank. Thus, Ecology would incur negligible costs to make these small number of anticipated transactions each year (of which the total amount of the contracts would not exceed \$22,000 per year) and would be conducted within existing resources.

Section 5 - Would amend 90.42.080 RCW language used from "water" to "surface or groundwater" throughout the section. Directs the department to calculate the amount of water put into a bank from a trust water right to only consider the extent of the right put to use prior to the right being placed into trust.

Section 6 - Would authorize the department to adopt rules as needed. The department does not anticipate any rule-making would be needed but has included the provision in case unexpected issues arise in the future. This would allow the department to deal with the issue rather than amending existing law. Thus, no fiscal impact is expected.

Section 7 - Would authorize the department to prescribe conditions on mitigation water placed into the bank for surface waters.

Section 8 - Would authorize the department to prescribe conditions on mitigation water placed into the bank for groundwaters.

Section 9 - Would clarify how Ecology would calculate annual consumptive quantity per 90.03.380(1) RCW under certain conditions when the water right was in the trust water program, or has been in a water bank, or partial nonuse has occurred.

Section 10 - Would direct that if any provision of the act or its application to any person or circumstance is held invalid, that the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Much of the work to establish local banks is and would continue to be done at the local level. Creation of local waterbanks is voluntary. This bill is expected to clarify roles and authorities, but not to impose new fiscal impacts on local or state government.

## **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.*

## **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.*

## **Part III: Expenditure Detail**

## **Part IV: Capital Budget Impact**

## **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.*