

Multiple Agency Fiscal Note Summary

Bill Number: 2591 P HB PSHB 2591 (H-4345.2/10)	Title: Water right permits
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Estimated Cash Receipts

Agency Name	2009-11		2011-13		2013-15	
	GF- State	Total	GF- State	Total	GF- State	Total
Department of Ecology	(452,000)	20,381,932	(904,000)	36,353,314	(904,000)	20,576,214
Total \$	(452,000)	20,381,932	(904,000)	36,353,314	(904,000)	20,576,214

Local Gov. Courts *						
Local Gov. Other **	Non-zero but indeterminate cost. Please see discussion.					
Local Gov. Total						

Estimated Expenditures

Agency Name	2009-11			2011-13			2013-15		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of Attorney General	Fiscal note not available								
Department of Ecology	1.7	(743,344)	645,370	76.5	(11,676,552)	15,944,924	76.5	(11,676,552)	15,459,816
Total	1.7	\$(743,344)	\$645,370	76.5	\$(11,676,552)	\$15,944,924	76.5	\$(11,676,552)	\$15,459,816

Local Gov. Courts *									
Local Gov. Other **			2,450,963			4,901,926			3,006,525
Local Gov. Total			2,450,963			4,901,926			3,006,525

Estimated Capital Budget Impact

Agency Name	2009-11		2011-13		2013-15	
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Office of Attorney General						
Acquisition	0	0	0	0	0	0
Construction	0	0	0	0	0	0
Other	0	0	0	0	0	0
Total \$	\$0	\$0	\$0	\$0	\$0	\$0

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Prepared by: Linda Steinmann, OFM	Phone: 360-902-0573	Date Published: Preliminary
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID 25215

FNS029 Multi Agency rollup

Individual State Agency Fiscal Note

Revised

Bill Number:	2591 P HB PSHB 2591 (H-4345.2/10)	Title:	Water right permits	Agency:	461-Department of Ecology
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Part I: Estimates



No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2010	FY 2011	2009-11	2011-13	2013-15
General Fund-State 001-1		(452,000)	(452,000)	(904,000)	(904,000)
Water Rights Tracking System Account-State 10G-1		(143,968)	(143,968)	(287,936)	(287,936)
Water Rights Processing and Dam Safety Account-State New-1		20,977,900	20,977,900	37,545,250	21,768,150
Total \$		20,381,932	20,381,932	36,353,314	20,576,214

Estimated Expenditures from:

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years	0.0	3.5	1.7	76.5	76.5
Account					
General Fund-State 001-1	0	(743,344)	(743,344)	(11,676,552)	(11,676,552)
Water Rights Tracking System Account-State 10G-1	0	(143,968)	(143,968)	(287,936)	(287,936)
Water Rights Processing and Dam Safety Account-State New-1	0	1,532,682	1,532,682	27,909,412	27,424,304
Total \$	0	645,370	645,370	15,944,924	15,459,816

Estimated Capital Budget Impact:

Total \$					

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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:	Jaclyn Ford	Phone: 360-786-7339	Date: 01/14/2010
Agency Preparation:	Jim Skalski	Phone: 360-407-6617	Date: 01/22/2010
Agency Approval:	Patricia McLain	Phone: 360-407-7005	Date: 01/22/2010
OFM Review:	Linda Steinmann	Phone: 360-902-0573	Date: 01/22/2010

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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 water rights application backlog was created over the years because existing resources could not keep-up with processing the number of applications submitted for new water and/or changes in existing use. The backlog presently includes approximately 6,856 applications including those for new water (5,534), changes to water rights already issued (1,268) and new reservoir permits (54). In addition to the application backlog, Ecology receives roughly 500 new water use or change in water use applications each year. Prior to the 09-11 Budget being implemented, Ecology staff were processing roughly 500 applications a year which kept the existing application backlog from increasing. Now that staffing within the water rights processing activity has been reduced consistent with the current law budget, Ecology assumes the backlogs will increase.

Under current law, certain users of public waters must receive approval (in the form of a water right permit or certificate) from the state prior to using any water. This includes use of surface water (lakes, ponds, rivers, streams, or springs) which began after the state water code was enacted in 1917. Likewise, withdrawals of underground water (groundwater) from 1945 onward (when the state groundwater code was enacted) also require a water right permit or certificate unless the use is specifically exempt from state permitting requirements under 90.44.050 RCW. While “exempt” groundwater uses are excused from needing a state permit, they still are considered to be water rights. Ecology currently processes all new and change applications each year based on the existing fee schedule set forth under 90.03.470 RCW. The water rights processing costs are funded by the State General Fund, and the current fees collected offset approximately 2% those costs. Under current law, this fee revenue is apportioned with 80% going to the State General Fund and 20% going to the Water Rights Tracking System Account.

This bill would increase existing fees required by the statute and would direct Ecology to recover the actual cost of processing applications for water rights (so that fees would offset 100% of costs paid by the State General Fund). The bill would also require that the backlog of applications be eliminated within four years of the effective date of the act. Ecology would recover costs from applicants through fees initially set by the legislature and thereafter adjusted (as needed) by rule. Additionally, Ecology would be required to process all water right permit applications to a conclusion within twelve months of application being made to Ecology. All revenue to be collected under this act would be deposited to the water rights processing and dam safety account, instead of the State General Fund and the Water Rights Tracking System Account.

A section by section analysis follows:

Section 1 would define the intent of the legislature to direct the department to recover the actual cost of processing applications and to eliminate the existing water rights backlog within four years of the effective date of this act. The bill would also direct the department to process all applications within twelve months of receipt once the backlog was eliminated.

Section 2 would establish the water rights processing and dam safety account in the state treasury. All fees collected under 90.03.470 (those related to this act) would be deposited to the account. Expenditure from the account could only be used to support processing of water right application and change applications per chapters 90.38, 90.42 and 90.44

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RCW, or for the safety inspection of hydraulic works, plans and specifications for such works.

Section 3 would establish fee structures.

Section 4 would require registration of withdrawals and fees for permit exempt wells established under 90.44.050 RCW.

Section 5 would authorize Ecology to periodically adopt rules to modify the fees outlined in this act to ensure that all costs related to water rights processing of applications would be fully recovered. Prior to adopting any rules, the department would have to consult with the policy committees of the legislature that review water resources legislation.

Section 6 would require Ecology to submit a report to the legislature on the status of the backlog of applications and the effectiveness of processing applications within twelve months once the backlog would be eliminated. Ecology would make the first report no later than December 31, 2011, and biennially thereafter until December 31, 2019. The bill provides an expiration of this section on January 1, 2020.

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.

Under current law, fee revenue from water rights applications is apportioned with 80% going to the State General Fund and 20% going to the Water Rights Tracking System Account. For the 09-11 biennium, Ecology initially estimated that approximately \$180,000 in water rights application and \$725,000 in dam safety fees would be collected/deposited to the State General Fund and that \$225,000 would be collected and deposited to the Water Rights Tracking System Account under existing fee schedules. The amount of revenue collected is dependent on the number(s) and type(s) of applications received. Please note that:

1. The FY 2011 amount in the Water Rights Tracking System Account represents the appropriation given to the department for the 09-11 biennium and is based on prior year collections of revenue. Prior to 09-11, Ecology did not have any appropriation authority from this account.
2. The FY2012 through FY2015 amounts for the Water Rights Tracking System Account reflect revenue reduction based on collections of both water right applications and dam safety fees which, under current law, are deposited using the 80/20 split.

The bill would eliminate fees from being deposited in the 80/20 allocation method and would direct all fees (100%) to a newly established fund called the Water Rights Processing and Dam Safety Account. Ecology assumes that all activities previously funded out of the State General Fund and the Water Rights Tracking System Account would transition to the new dedicated account established in the bill.

Section 1: The backlog presently includes approximately 6,856 applications including those for new water (5,534), changes to water rights already issued (1,268) and new reservoir permits (54). In addition to the applications in the backlog, Ecology receives roughly 500 new water use or change in water use applications each year. Ecology estimates that roughly 300,000 to 400,000 permit exempt wells currently exist.

For the purposes of this analysis, Ecology assumes all of the applications in the backlog would be processed equally

across the four years and that 10% of all applications in the backlog would not pay the required fees but would require work to be done on them as part of denials, withdrawals, cancellations, lawsuits, appeals, etc. Ecology also estimates that fifty percent (or 175,000) of 350,000 permit exempt wells would initially pay the required fees. Based on the proposed fee structure and processing roughly 2,214 applications a year for four years, processing revenue would generate an estimated \$16.6 million per year (from processing fees) for FY 2012 through 2015 and one-time revenue of \$8.75 million from permit exempt well registration in FY2012 only. Once the backlog would be eliminated and assuming applications would be received at a rate of roughly 500 per year, the department estimates that revenue and expenditures would level out at approximately \$5.1 million per year in addition to permit exempt well fees remitted at a later date. Please note that fees would need to be adjusted in future years to offset actual costs of processing applications. Please see the attached document for specific details related to fees authorized in the bill and estimated revenue.

Section 3 would establish a fee structure for water rights applications. The amount of the fee would be dependent on the amount of water proposed to be used (measured in cubic feet per second - CFS) in the application and the type (new water, change, storage, etc.) of application. For an application for new water or to change, transfer or amend an existing right, the following increased fees would apply:

- (1) up to 0.02 CFS - \$2,000,
- (2) over 0.02 CFS but less than or equal to 0.1 CFS - \$3,000,
- (3) over 0.1 CFS but less than or equal to 0.5 CFS - \$4,500,
- (4) over 0.5 CFS but less than or equal to 1.0 CFS - \$10,000,
- (5) over 1.0 CFS but less than or equal to 10.0 CFS - \$15,000, and
- (6) over 10.0 CFS - \$25,000.

For an application to store water (measured in acre feet - AF), the following fees would apply:

- (1) storage of less than 100 acre feet - \$1,000,
- (2) over 100 AF but less than or equal to 1,000 AF - \$2,000,
- (3) over 1,000 AF but less than or equal to 10,000 AF - \$7,500, and
- (4) over 10,000 AF - \$15,000.

The fees paid to the department for an application for change filed with a conservancy board or as party to a cost reimbursement agreement would be one-fifth the amounts provided in subsection one and two of this act. A conservancy board could also charge its own processing fees in accordance with 90.80.060 RCW.

The fee for a temporary or seasonal change would be \$200.

The fee for filing an emergency withdrawal or temporary drought related water right change would be \$100.

The fee for applying for an extension of time for beginning construction work would be \$250 for each extension.

For the examination of plans and specifications for the safety of controlling works for storage of water of ten AF or more, a minimum fee of \$500 or the actual cost would be required.

Additional fees would include:

- (1) recording an assignment - \$200,
- (2) preparing and issuing all water right certificates - \$200,
- (3) registration of each permit exempt groundwater withdrawal (after effective date of the act) - \$300,
- (4) pending water right permit, reservoir or change applications - \$200 one-time fee that is a credit against other fees

paid in this section. Applications not in good standing shall be cancelled.

The fee amounts specified in section one and two of this section would apply to all applications received after the effective date and all applications that have not been acted upon by the department by issuance of a report of examination. Any fees previously paid to the department prior to the effective date of this act would have to be credited to the amounts required under sections one and two of this act. The department would have to notify the applicant that additional fees were due and the applicant would have sixty days to pay the additional fees. The department would be required to cancel the application and inform the applicant of the cancellation if the fees were not paid. If an application was received without the proper fees included, the department would be required to return the application with instructions on the proper fee amount to be remitted. The fees collected under this section would be deposited to the water rights processing and dam safety account created under section two of this section. The fees specified in this section would be effective through June 30, 2011, or until modified.

Section 4 would require owners of permit exempt wells established under 90.44.050 RCW to register the withdrawal with the department. Ecology would be required to collect information electronically, by mail or personal delivery and make it available via the internet. The registration fee for each permit exempt withdrawal made prior to January 1, 2010, would be \$50 and would be \$300 for those commencing after January 1, 2010. Where owners of a permit exempt well that adds dwelling units or new purposes for the use of the withdrawal by more than twenty percent, the bill would require the owners to pay a new registration fee of \$100 and provide a new registration form to the department. Ecology could phase in the permit exempt well registration requirement on a county by county basis if desired. The bill would require that all fees collected under section four of this act be deposited in the water rights processing and dam safety account. Ecology could issue an order or civil penalty or both to anyone who would fail to register and pay the required fees for any permit exempt well that they own. Ecology assumes that 50% of the estimated 350,000 permit exempt wells would pay the fee and that it would be collected equally between FY2012 and FY2013. Ecology assumes that the remaining 50% of permit exempt well users in this category will not pay the fee.

Please note: With respect to the 10-Year Analysis required for I-960, Ecology estimates that fee levels over the next ten years would approximate the initial fee levels set by the bill. Due to the number of variables (type of application, number of applicants, location of source, quantity of water, etc.) it is difficult to accurately predict the level of fees over the next ten years.

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.

This bill would create fiscal impact on the department by requiring the elimination of the water right application backlog within four years, requiring all actual costs to process applications be supported by fees, implementing a new fee structure with periodic rule updates, and by creating a registry for permit-exempt groundwater wells. Ecology assumes that all current and future processing costs incurred by processing staff, support staff, information technology staff, attorney general staff, fiscal staff and agency administration, including their necessary administrative support costs, would be covered by the additional revenue from fees outlined in this bill. Ecology also assumes that:

1. New applications will be “batch” processed by source of water where possible to minimize costs;
2. All change applications will require individual processing because each is unique;

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3. Applicants will be billed the new fees during a slower period of time for agency fiscal staff in order to minimize costs billings for the new processing fees would likely be sent to applicants during January of each year;
4. A one-year (1st fiscal year) communication & outreach strategy to inform new applicants as well as those in the backlog of the changes initiated by the legislation would be required;
5. Implementation would require an intensive recruitment and hiring plan to establish the necessary staff resources required to eliminate the backlog in four years;
6. Additional attorney general time above current levels would be required in the 1st year of application processing (2nd fiscal year) as well as up to two years (6th & 7th fiscal year assuming a four year processing timeline) after backlog application processing concludes to handle appeals and lawsuits;
7. The number of processing staff needed would vary from year to year depending on the number of applicants opting out of paying new processing, line or permit exempt well registration fees;
8. Applications in the backlog that could be processed with mitigation would be set aside until the applicant brings forth sufficient mitigation alternatives;
9. Backlog applicants would be informed of the basins / sub-basins where decisions are likely to be a yes or a no thereby allowing applicants to opt-out of paying the new fees by allowing their applications to be withdrawn voluntarily;
10. Ecology assumes that no refunds would be provided to applicants that voluntarily opt out of paying the new fees required to process their application.
11. In places where the decision is likely to be no, a significant number of applicants would likely choose not to pay the new fees and let their pending application be denied for failure to pay;
12. Depending on the number of applicants paying the new fees and the type applications submitted, that fees will need to be adjusted annually to fully recover costs;
13. Fees could go up or down from year to year depending on the make-up of the applications submitted and the workload required;
14. 10% of applicants would choose not to pay fees. Processing those applications will still require work by Ecology;
15. Communications and Outreach and Staffing Implementation would commence in FY2011;
16. Backlog processing of applications will commence in FY2012.
17. 5.25 FTE AAG time for FY 2011 (1.75 new and 3.5 existing), 7.0 FTE of AAG time for FY 2012 through FY 2015 (3.5 existing and 3.5 new). Please note that additional AAG time is also assumed to be required for FY 2016 and 2017.
18. Rule-making activities related to updating and modifying fees will be conducted as part of the activities of new staff identified in the total expenditures and FTE sections. This would be the same as existing staff doing rule-making under current law.

Section 1 would require new resources for Ecology to eliminate the water rights processing backlog within four years of the effective date of this act. At present, the average number of decision per processing FTE is 10 to 12 (based on last 7 year average) although more recent years show an average of less than 10 due in part to the “easy” decisions already being completed. Ecology assumes that thirty decisions per processing FTE (including batch processing efficiencies) is implemented as well as other time saving measures yet to be determined. This would include those opting out and denials. Please note that the 500 new and change applications received annually will be processed at a rate different than the backlog due to there being different types of applications in each pool. The 500 annual applications received will still be processed at an average rate of 10 to 15 per FTE per year while the backlog will be processed (using batch and other efficiencies unique to the backlog) at a rate of 30 per FTE per year.

Section 3 would require new resources for Ecology to develop a database of contact information for all backlog applicants, populate the billing system with data (using existing agency systems), notify applicants of the new fee structure and their portion of payment, collect all fees submitted and manage invoices of all applicants. This activity can be performed using existing staff and agency systems due to the limited number of applicants in this pool which is roughly 7,000 backlog applications and 500 annual new or change applications. This is work already performed by existing staff.

Section 4 would require new resources for Ecology to develop a database of permit exempt well owners, populate the billing system with data (using existing agency systems), notify applicants of the new fee structure and their portion of payment, collect all fees submitted and manage invoices of all applicants. This element will require new resources due to the volume of registrations in this pool of participants which is estimated at 300,000 to 400,000.

Section 5 would require new resources for Ecology to perform annual rule-making to modify the fee schedule to ensure recovery of processing costs.

Section 6 would require new resources for Ecology to submit biennial reports to the legislature informing them of the status of backlog reduction and annual processing times.

New resources of varying levels would be required for up to seven years to implement this legislation and include outreach and communication (year 1 and partial ongoing), recruitment and hiring (year 1 and ongoing), processing of backlog and annual applications (years 2 through 5), legal analysis and support (year 1 through 7) and reporting (years 2 through 10) to the legislature. The department assumes significant new legal costs associated with implementation of this bill would be required.

FTEs: Sections 1 through 6 would result in adding new FTEs to the department and also shift existing FTEs from the State General Fund to the newly created Water Rights Processing and Dam Safety dedicated account. Expenditure estimates include all existing processing, support, information technology, attorney general, fiscal and agency administration staff related to water rights processing. Current staffing within Ecology dedicated to Water Rights Processing is roughly 47 FTE within twenty-one discrete job classes. The costs for these classes are shown as negative State General Fund costs and are shifted to the dedicated account. In order to eliminate the backlog, Ecology assumes adding 76.45 additional FTE within nine existing job classes for the four years required.

From FY 2011 through FY 2015:

- 1 FTE of an Office Assistant 3,
- 1 FTE of an Information Technology Specialist 3,
- 1 FTE of a Community Outreach & Environmental Education Specialist 2.

Starting in FY 2012 through FY 2015:

- 0.75 FTE Environmental Engineer 6,
- 7.10 FTE of an Environmental Specialist 1,
- 4.90 FTE of an Environmental Specialist 2,
- 33.42 FTE of an Environmental Specialist 3,

2.68 FTE of an Environmental Specialist 4,
 6.19 FTE of an Environmental Specialist 5,
 26.52 FTE of a Hydrogeologist 3,
 10.47 FTE of a Hydrogeologist 4,
 1.60 FTE of an Information Technology Specialist 4,
 4.33 FTE of a Secretary Senior,
 2 FTE of a WMS1,
 2.20 FTE of a WMS2,
 3.37 of an Office Assistant 3, and
 5 FTE of an Environmental Technician.

Notes on costs by object:

Salary estimates are based on current actual rates for positions shown.

Employee Benefits are calculated at the agency average of 28.3% of salaries.

Goods and Services are calculated at the agency average rate of \$4,377 per direct program FTE, 5.25 FTE (\$1,115,016) AAG time for FY 2011, 7.0 FTE (\$1,486,688) of AAG time for FY 2012 through FY 2015. Please note that additional AAG time is also assumed for FY 2016 and 2017.

Travel expenditures are calculated at the agency average rate of \$1,110 per direct program FTE.

Start-up Equipment costs for the first year are calculated at the agency average rate of \$7,624 per direct program FTE based on current costs for 1/5 motor pool vehicle, basic computer equipment, and an office chair.

Agency Administrative Overhead is calculated at the federal indirect rate of 36.80% of program salaries and benefits, and is identified in Expenditures by Object as 9-Agency Administrative Overhead.

Administration program FTEs are included at 0.15 FTE per direct program FTE, and are identified in the Part III-B FTE Detail table as Fiscal Analyst 2.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years		3.5	1.7	76.5	76.5
A-Salaries and Wages		212,400	212,400	13,214,908	13,214,914
B-Employee Benefits		60,109	60,109	3,739,820	3,739,820
C-Personal Service Contracts					
E-Goods and Services		1,132,524	1,132,524	3,975,972	3,975,972
G-Travel		4,440	4,440	254,256	254,256
J-Capital Outlays		22,926	22,926	485,114	
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-Agency Administrative Overhead		100,283	100,283	6,239,342	6,239,342
Total:	\$0	\$1,532,682	\$1,532,682	\$27,909,412	\$27,424,304

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 2010	FY 2011	2009-11	2011-13	2013-15
COEES2	48,168		1.0	0.5	1.0	1.0
Environmental Specialist 1	38,556				5.0	5.0
Environmental Specialist 3	51,864				21.9	21.9
Environmental Technician	34,260				5.0	5.0
Fiscal Analyst 2			0.5	0.2	10.0	10.0
Hydrogeologist 3	69,756				21.9	21.9
Hydrogeologist 4	78,900				6.4	6.4
ITAS3	51,864		1.0	0.5	1.0	1.0
Office Assistant 3	33,468		1.0	0.5	4.4	4.4
Total FTE's	406,836		3.5	1.7	76.5	76.5

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.

Ecology anticipates rule-making to occur annually from FY 2012 through FY2015 in order to set applicable fees to a level that will meet the intent of the bill.

LOCAL GOVERNMENT FISCAL NOTE

Department of Community, Trade and Economic Development

Bill Number: 2591 P HB PSHB 2591 (H-4345.2/10)	Title: Water right permits
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- ☒ Cities: Cities, counties and special districts with pending or future water right applications. Please see the attached narrative.
- ☒ Counties: As above
- ☒ Special Districts: As above
- ☐ Specific jurisdictions only:
- ☐ Variance occurs due to:

Part II: Estimates

- ☐ No fiscal impacts.
- ☐ Expenditures represent one-time costs:
- ☐ Legislation provides local option:
- ☐ Key variables cannot be estimated with certainty at this time:

Estimated revenue impacts to:

Indeterminate Impact

Estimated expenditure impacts to:

Jurisdiction	FY 2010	FY 2011	2009-11	2011-13	2013-15
City		1,237,265	1,237,265	2,474,530	1,517,717
County		81,030	81,030	162,060	99,397
Special District		1,132,668	1,132,668	2,265,336	1,389,411
TOTAL \$		2,450,963	2,450,963	4,901,926	3,006,525
GRAND TOTAL \$					10,359,414

Part III: Preparation and Approval

Fiscal Note Analyst: Jaime Kaszynski	Phone: 360-725-2717	Date: 01/21/2010
Leg. Committee Contact: Jaclyn Ford	Phone: 360-786-7339	Date: 01/14/2010
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 01/21/2010
OFM Review: Linda Steinmann	Phone: 360-902-0573	Date: 01/22/2010

Part IV: Analysis

A. SUMMARY OF BILL

Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.

Please see the attached narrative.

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.

Please see the attached narrative.

C. SUMMARY OF REVENUE IMPACTS

Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.

Please see the attached narrative.

Bill Number: **2591 P HB PSHB 2591 (H-4345.2/10)**

Short Title: Water right permits

PART IV / ANALYSIS

A – Summary of Bill

Description of the bill with an emphasis on how it impacts local government.

The proposed legislation would increase the fees charged by the Department of Ecology for water-related applications to reflect the actual costs of processing the applications. The intent of the legislation is to eliminate the application backlog within four years.

Pending applications would be cancelled if fees were not paid within 60 days after Ecology notifies the applicant that additional fees are due. New applications would not be given a priority date until all fees were paid.

Sections of the bill that would impact local governments include:

SECTION 3: Amends RCW 90.03.470 to:

(1) Set fees for a permit to appropriate water or an application to change, transfer or amend an existing water right as follows:

- (a) up to 0.02 cubic foot per second (CFS) - \$2,000,
- (b) over 0.02 CFS but less than or equal to 0.1 CFS - \$3,000,
- (c) over 0.1 CFS but less than or equal to 0.5 CFS - \$4,500,
- (d) over 0.5 CFS but less than or equal to 1.0 CFS - \$10,000,
- (e) over 1.0 CFS but less than or equal to 10.0 CFS - \$15,000, and
- (f) over 10.0 CFS - \$25,000.

(2) Set fees for an application to store water or change a storage right as follows:

- (a) storage of less than 100 acre feet (AF) - \$1,000,
- (b) over 100 AF but less than or equal to 1,000 AF - \$2,000,
- (c) over 1,000 AF but less than or equal to 10,000 AF - \$7,500, and
- (d) over 10,000 AF - \$15,000.

(3) (a) Set fees paid to the Department of Ecology for an application for change filed with a conservancy board or as party to a cost reimbursement agreement at one-fifth the amounts provided in subsection one and two of this act. A conservancy board may charge its own processing fees in accordance with 90.80.060 RCW.

(b) Set the fee for a temporary or seasonal change at \$200.

(4) (a) Provide that the fee amounts specified in subsections 1 and 2 apply to all applications received after the effective date and all applications that have not been acted upon by Ecology by issuance of a report of examination. Fees previously paid are credited. For existing applications, once Ecology is prepared to act on the application the department shall notify the applicant that additional fees are due and the applicant shall have 60 days to pay the additional fees or the application will be cancelled.

(b) Provides that, if an application is received without the proper fees included, Ecology shall return the application and no priority date will be established until the proper fee is paid.

Additional fees set in SECTION 3 include: emergency withdrawal or temporary drought related change - \$100, extension of time to begin construction - \$250, examination of plans and specifications for the safety of controlling works for storage of water of ten acre feet or more - \$500 or the actual cost of the examination, recording an assignment - \$200, preparing and issuing all water right certificates - \$200, registration of each permit exempt groundwater withdrawal (after effective date of the act) - \$300, pending water right permit, reservoir or change applications - \$200 one-time fee that is a credit against other fees paid in this section.

The fees specified in SECTION 3 are effective through June 30, 2011 or until modified.

SECTION 4: Amends RCW 90.44.050 to require owners of permit exempt wells to register the withdrawal with Ecology and set the registration fee for each permit exempt withdrawal made prior to January 1, 2010 at \$50 and those commencing after January 1, 2010 at \$300. Owners of a permit exempt well that adds dwelling units or new purposes for the use of the withdrawal by more than twenty percent, would pay a new registration fee of \$100.

Ecology may phase in the permit exempt well registration requirement on a county by county basis and may issue an order or civil penalty or both to anyone who fails to register and pay required fee. A permit exempt withdrawal that has not been registered can not be recognized as a water right under a general adjudication of water rights held under RCW 90.03.

SECTION 5: Adds a new section to RCW 90.03 to authorize Ecology to periodically adopt rules to modify the fees set in SECTION 3 to ensure that all costs related to water rights processing of applications are fully recovered. Prior to adopting any rules, Ecology must consult with the legislature.

B – Expenditure Impacts

Describes and quantifies the potential expenditure impacts of the legislation on local government, distinguishing between city, county and special district impacts when appropriate.

The proposed legislation would increase local government expenditures by approximately \$2.45 million each year for fiscal years 2011 through 2014, and \$550,000 per year subsequently as shown in Table I (*next page*). Actual impacts would vary depending on the number of local governments that apply for water rights, the volume of water applied for and future changes to fee amounts.

Impacts on individual jurisdictions would vary based on the number of pending applications and range from \$2,000 for a jurisdiction with one small application to as much as \$250,000 for a jurisdiction with several large- and medium-sized applications.

The estimates in Table I are based on the Department of Ecology's assumption that 10 percent of applicants would resist paying the increased fee. Actual local impacts could range from 10

percent greater than these estimates to substantially lower if a large number of applicants chose not to have their applications processed.

TABLE I: Total estimated expenditures for processing of backlogged and annual applications

Estimated expenditure impacts to:	FY 2010	FY 2011	2009-11	2011-13	2013-15
Cities	\$0	\$1,237,265	\$1,237,265	\$2,474,530	\$1,517,717
Counties	\$0	\$81,030	\$81,030	\$162,059	\$99,397
Special Districts	\$0	\$1,132,668	\$1,132,668	\$2,265,337	\$1,389,411
Total	\$0	\$2,450,963	\$2,450,963	\$4,901,925	\$3,006,525
Grand Total					\$10,359,413

Tables II and III provide estimated expenditure impacts for processing the backlog of applications and the new applications that would be submitted each year. The average annual fee expenditure for FY 2011 – 2014 in Table II added to the average annual fee expenditure in Table III provides the expenditure totals in Table I.

TABLE II: Estimated expenditures for backlogged new, change and reservoir applications

Total Combined Backlogged Applications	Number	Total Fees	Less 10% (Ecology assumed resistance factor)	Estimated Fee Expenditure	Average Annual Fee Expenditure (Over four years— FY 2011 – FY 2014)
Cities	340	\$4,252,500	\$425,250	\$3,827,250	\$956,813
Counties	34	\$278,500	\$27,850	\$250,650	\$62,663
Special Districts	343	\$3,893,000	\$389,300	\$3,503,700	\$875,925
Total	717	\$8,424,000	\$842,400	\$7,581,600	\$1,895,400

TABLE III: Estimated expenditures for newly submitted annual new and change applications

Annual New and Change Applications	Number	Total Fees	Less 10% (Ecology assumed resistance factor)	Average Annual Fee Expenditure (Ongoing)
Cities	24	\$311,614	\$31,161	\$280,452
Counties	2	\$20,408	\$2,041	\$18,367
Special Districts	24	\$285,270	\$28,527	\$256,743
Total	50	\$617,292	\$61,729	\$555,563

ASSUMPTIONS AND METHODOLOGY

Figures were derived based on databases maintained by the Department of Ecology. Because the databases do not indicate whether an applicant is a local jurisdiction, Local Government Fiscal Note Program staff sorted all applicants into the categories of city, county and special district by the name of the applicant. Figures should be seen as approximations as errors could have occurred in categorization.

Total estimated expenditure impacts are a combination of backlogged applications and new applications and are modeled on the estimates contained in the fiscal note prepared by the Department of Ecology.

Estimates for backlog applications are actuals taken from Ecology's databases. Estimates for new annual applications were derived on the assumption that 10 percent of annual applicants would be local governments, but that local government applicants would pay 16 percent of fees which corresponds to the percent of fees that would be paid for all backlog applications. Estimates were split between cities, counties and special districts using the ratio of applications and total fees from the total combined backlog.

TABLE IV: Detail of totals in Table II, separated into new, change and reservoir applications

Backlog New Applications	Number	Total Fees	Less 10% (Ecology assumed resistance factor)	Estimated Fee Expenditure	Average Annual Fee Expenditure (Over four years)
Cities	177	\$2,665,500	\$266,550	\$2,398,950	\$599,738
Counties	31	\$259,500	\$25,950	\$233,550	\$58,388
Special Districts	230	\$2,739,000	\$273,900	\$2,465,100	\$616,275
Total	438	\$5,664,000	\$566,400	\$5,097,600	\$1,274,400

Backlog Change Applications	Number	Total Fees	Less 10% (Ecology assumed resistance factor)	Estimated Fee Expenditure	Average Annual Fee Expenditure (Over four years)
Cities	158	\$1,534,000	\$153,400	\$1,380,600	\$345,150
Counties	3	\$19,000	\$1,900	\$17,100	\$4,275
Special Districts	111	\$1,150,000	\$115,000	\$1,035,000	\$258,750
Total	272	\$2,703,000	\$270,300	\$2,432,700	\$608,175

Backlog Reservoir Applications	Number	Total Fees	Less 10% (Ecology assumed resistance factor)	Estimated Fee Expenditure	Average Annual Fee Expenditure (Over four years)
Cities	5	\$53,000	\$5,300	\$47,700	\$11,925
Counties	0	\$0	\$0	\$0	\$0
Special Districts	2	\$4,000	\$400	\$3,600	\$900
Total	7	\$57,000	\$5,700	\$51,300	\$12,825

Please note that fees for seasonal change, emergency withdrawal, time extension permits and certificates are not included in these totals because no data was available to indicate the proportion of such fees that would be paid by local governments. Ecology estimates revenue from those fees to be \$210,000 per year, so the local government portion is likely to be minor (less than \$50,000).

C. Revenue Impacts

Describes and quantifies the potential impacts of the legislation on local government revenue or revenue authority, distinguishing between city, county and special district impacts when appropriate.

The proposed legislation would have no direct impact on local government revenue. Some jurisdictions that have backlogged permits processed by the Department of Ecology within the four-year timeframe contemplated by the proposal would have indirect revenue increases since they would be able to put the water to use more quickly. Such indirect revenue impacts would vary based on individual circumstances and cannot be reasonably estimated.

For example, a local government water purveyor such as a municipal water utility or water district could expand service sooner allowing for the sale of water to new development, a power utility could increase hydroelectric generation for sale to customers, an irrigation district could sell additional water for agricultural uses, etc. Conversely, some jurisdictions that currently sell water to entities with pending applications could experience revenue reductions if the customer is able to obtain their own water right sooner through an expedited process as discussed above.

D – Sources Consulted:

Department of Ecology Water Rights Program (staff, publications and permit databases)
Washington Public Utilities District Association
Association of Washington Cities
Department of Ecology fiscal note
Law Office of Thomas D. Mortimer
Local Government Fiscal Notes on HB 2508/SB 6267 (2010)