

Multiple Agency Fiscal Note Summary

Bill Number: 2253 HB	Title: SEPA
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Estimated Cash Receipts

Agency Name	2011-13		2013-15		2015-17	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of Attorney General	0	75,510	0	86,161	0	86,161
Total \$	0	75,510	0	86,161	0	86,161

Estimated Expenditures

Agency Name	2011-13			2013-15			2015-17		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of Attorney General	.3	0	75,510	.4	0	86,161	.4	0	86,161
Department of Archaeology and Historic Preservation	.0	0	38,105	.0	0	76,810	.0	0	76,810
Department of Ecology	1.1	297,580	297,580	1.0	236,487	236,487	.8	195,658	195,658
Department of Fish and Wildlife	.1	(10,600)	(10,600)	.1	(21,200)	(21,200)	.1	(21,200)	(21,200)
Department of Natural Resources	.2	12,600	34,800	.1	7,200	19,600	.0	3,000	8,200
Total	1.7	\$299,580	\$435,395	1.6	\$222,487	\$397,858	1.3	\$177,458	\$345,629

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

Estimated Capital Budget Impact

NONE

Prepared by: Linda Steinmann, OFM	Phone: 360-902-0573	Date Published: Final 2/21/2012
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID 32220

FNS029 Multi Agency rollup

Individual State Agency Fiscal Note

Bill Number: 2253 HB	Title: SEPA	Agency: 100-Office of Attorney General
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Part I: Estimates

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No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2012	FY 2013	2011-13	2013-15	2015-17
Legal Services Revolving Account-State 405-1		75,510	75,510	86,161	86,161
Total \$		75,510	75,510	86,161	86,161

Estimated Expenditures from:

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	0.0	0.6	0.3	0.4	0.4
Account					
Legal Services Revolving Account-State 405-1	0	75,510	75,510	86,161	86,161
Total \$	0	75,510	75,510	86,161	86,161

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: Anna Jackson	Phone: 360-786-7194	Date: 01/10/2012
Agency Preparation: Cam Comfort	Phone: (360) 664-9429	Date: 02/01/2012
Agency Approval: Sarian Scott	Phone: (360) 586-2104	Date: 02/01/2012
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 02/01/2012

Request # 12-093-1

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.

Section 1 is a new section added to RCW 43.21C creating the Categorical Exemption Board (Board) to serve as the rule-making body for the provisions expressly indicated in section 2. Rules adopted by the Board are complementary to, and have the same force and effect as, rules adopted by the Department of Ecology (ECY). The members of the Board include the Director of ECY or the Director's designee, the Commissioner of Public Lands or the Commissioner's designee, and five additional members appointed by the Governor. ECY is required to provide clerical and research staff support within the existing resources. All rules adopted by ECY under RCW 43.21C.110 within the jurisdiction of the Board outlined in section 2 will remain in effect, but the Board will be responsible to amend them.

Section 2 is a new section added to RCW 43.21C limiting the rule-making powers of the Board to specific phases of interpretation and implementation of this chapter. The duty of the Board is to ensure that categorical exemptions from this chapter and the environmental checklist process outlined in WAC 197-11-960 are updated periodically, duplicate rules and regulations are reduced, and avoidable costs are contained, while meeting the chapter's objectives. The Board is prohibited from adopting rules that relate to climate change or result in categorical exemptions that are lower than those that were in effect on July 1, 2011.

Section 3 is a new section. The Board, by December 31, 2012, must make immediate changes to the categorical exemptions in RCW 43.21C, and the rules implementing those exemptions, to achieve the purposes outlined in section 2. By December 31, 2013, the Board must adopt further updates to the categorical exemptions and rules to include higher default levels and broader flexible levels than are specified in WAC 197-11-800(1)(c) as it existed on the effective date of this section. This section expires on July 31, 2014.

Section 4 amends RCW 43.21C.031 addressing when an environmental impact statement must be prepared. This section separates current subsection (1) into two subsections and deletes subsection (2) related to planned actions.

Section 5 is a new section added to RCW 43.21C to describe what a planned action is. Counties, cities, and towns are required to define the types of development included in the planned action or a specific geographical area that is less extensive than the jurisdictional boundaries of the county, city, or town, and may limit a planned action. The process for designating a planned action is specified.

Section 6 amends RCW 43.21C.229 related to infill development, and to expand the criteria for when an exemption may be adopted by a city or county under this section.

Section 7 is a new section added to RCW 43.21C providing that this chapter does not apply to projects related to restoring natural wildlife, fish habitats, or projects that serve as environmental mitigation for other projects. Several exceptions are listed.

Section 8 is a new section added to RCW 43.21C authorizing counties, cities, and towns to recover reasonable expenses incurred by preparing of a nonproject environmental impact statement under RCW 43.21C.030(2), including through the assessment of a reasonable and proportionate fee upon subsequent development.

Section 9 amends RCW 43.21C.420 to delete subsection (6) related to nonproject environmental impact statements and the recovery of reasonable expenses.

Section 10 is a new section added to RCW 43.21C categorically exempting certain listed utility-related actions from the requirements of this chapter. ECY is authorized to adopt additional categorical exemptions for utility-related actions in accordance with RCW 43.21C.110.

Section 11 is a new section added to RCW 43.21C categorically exempting certain listed proposed actions from the requirements of this chapter if the proposed action is located within a county, city, or town planning under RCW 36.70A.040.

Section 12 is a new section added to RCW 43.21C providing that the lead agency for an environmental review under this chapter utilizing an environmental checklist developed by ECY may satisfy the requirements of the checklist by identifying instances where questions on the checklist are adequately covered by a locally adopted ordinance, developmental regulation, or other legal authority.

Section 13 is a new section requiring ECY, by December 31, 2012, to amend RCW 197-11-960 to allow for the flexibility in the environmental checklist process provided in section 11.

Section 14 amends RCW 36.70A.490 to authorize moneys in the Growth Management Planning and Environmental Review Fund (GMPERF) to be loaned to local governments for the purposes set forth in RCW 43.21C.240 and .031, or RCW 36.70A.500. Any payment of either principle or interest, or both, derived from loans made from this fund must be deposited into the fund.

Section 15 amends RCW 36.70A.500 to require the Department of Commerce to provide management services for the GMPERF. The criteria that are to be considered in awarding a grant or loan is expanded to add environmental review that addresses the impacts of increased density or intensity of comprehensive plans, subarea plans, or receiving areas designated by a city or town under the regional transfer of the Development Rights Program in RCW 43.362.

Section 16 is a new section added to RCW 82.02 containing legislative findings and authorizes counties, cities, and towns that conduct detailed environmental review under RCW 43.21C, integrated with a comprehensive plan or subarea plan within urban growth areas, to impose environmental fees on developmental activity as part of the financing for environmental review conducted under RCW 43.21C on a comprehensive plan or subarea plan. Limitations are placed on such fees.

Section 17 amends RCW 82.02.020 to add the reference of “section 16 of this act.”

Section 18 amends RCW 43.21C.110 to remove from ECY’s rule-making authority categories of governmental actions which are not to be considered as potential major actions significantly affecting the quality of the environment.

Section 19 amends RCW 43.21C.095 to provide that rules adopted under RCW 43.21C.110 and section 1 of this act must be accorded substantial deference in the interpretation of this chapter.

Section 20 is a new section added to RCW 36.70B related to improving the local permit review process and facilitating complete and well-informed decision making.

Section 21 is a new section added to RCW 36.70B requiring local governments to integrate the permit procedures in section 20 with environmental review under RCW 43.21C in certain specified ways.

Section 22 is a new section added to RCW 36.70B authorizing a local government to provide for an administrative appeal of a decision made pursuant to its development and environmental review codes. Appeal procedures are specified.

Section 23 is a new section added to RCW 36.70B stating that the provisions of this chapter are applicable to all counties and cities.

Section 24 is a new section added to RCW 36.70 providing that the integrated environmental notice and review procedures for project review under RCW 36.70B are applicable to all counties and cities.

Section 25 is a new section repealing RCW 36.70B.110.

The Attorney General's Office (AGO) estimates a workload impact of 0.4 Assistant Attorney General (AAG) and 0.2 Legal Assistant (LA) at a cost of \$75,510 in Fiscal Year (FY) 2013, 0.3 AAG and 0.1 LA (from July 1 through December 31, 2013) and 0.2 AAG and 0.1 LA (from January 31, 2014 through June 30 2014) at a cost of \$47,756 in FY2014, 0.2 AAG and 0.1 LA at a cost of \$38,405 in FY2015 and FY2016, and 0.2 AAG and 0.1 LA (from July 1, 2016 through December 31, 2016) and 0.3 AAG and 0.1 LA (from January 1 through June 30, 2017) at a cost of \$47,756 in FY2017. The increase in staffing is to provide legal services for advice and rulemaking for the Board and for the Department of Archaeology and Historic Preservation (DAHP) for notices of violations and permitting issues.

We estimate direct litigation costs at \$700 in FY2013, and \$1,000 in FY2014 and in each FY thereafter, which are included in this cost. Direct litigation costs are assumed for litigation related costs, and increased travel.

This bill is assumed effective July 1, 2012.

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.

Funds are assumed to be Legal Service Revolving Account dollars. Legal services costs incurred by the AGO will be billed through the revolving fund to the client agency.

The client agencies are assumed to be ECY and DAHP. The AGO will bill ECY and DAHP for legal services rendered.

Please note that these cash receipts represent the AGO authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agencies fiscal note. Appropriation authority is necessary in the AGO budget.

Billings to ECY:
FY2013: \$37,405
FY2014: \$9,351
FY2015: \$0
FY2016: \$0
FY2017: \$9,351

Billings to DAHP:
FY2013: \$38,105
FY2014: \$38,405
FY2015: \$38,405
FY2016: \$38,405
FY2017: \$38,405

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.

The AGO estimates a workload impact of 0.4 AAG and 0.2 LA at a cost of \$75,510 in FY2013, 0.3 AAG and 0.1 LA (from July 1 through December 31, 2013) and 0.2 AAG and 0.1 LA (from January 31, 2014 through June 30 2014) at a cost of \$47,756 in FY2014, 0.2 AAG and 0.1 LA at a cost of \$38,405 in FY2015 and FY2016, and 0.2 AAG and 0.1 LA (from July 1, 2016 through December 31, 2016) and 0.3 AAG and 0.1 LA (from January 1 through June 30, 2017) at a cost of \$47,756 in FY2017.

We estimate direct litigation costs at \$700 in FY2013, and \$1,000 in FY2014 and in each FY thereafter, which are included in this cost.

ECY Assumptions:

1. We assume the AGO ECY division will provide legal services for advice and assistance to the Board. ECY is charged with supporting the board, and their rulemaking scope will replace what ECY previously had.
2. We assume we will continue to provide legal advice and rulemaking to the Board between July 1, 2012 and Dec 31, 2012 (FY2013) to get them up and running. This advice will include how they perform their functions, what legal rules apply to their work, etc. We assume rulemaking between for assistance with revisions to the environmental checklist. We assume 0.4 AAG between July 1, 2012 and Dec 31, 2012 (FY2013).
3. We assume the Board will require assistance and rulemaking through their second round with functioning issues. We assume 0.1 AAG from January 1 through June 30, 2013 (FY2013).
4. We assume the Board will continue to require assistance and rulemaking through the second round with functioning issues. We assume 0.1 AAG from July 1 through December 31, 2013 (FY2014).

5. We assume that there will be no requirement for legal services through FY2015 and FY2016. We assume there will be no petitions in this period, and if the Board accepts petitions and proceeds to rulemaking sooner than 2017, there will be unanticipated fiscal impact.

6. We assume AAG assistance for Board rulemaking will begin again on January 1, 2017 through June 30, 2017 (FY2017).

DAHP Assumptions:

1. We assume the categorical exemption for underground utility work in section 10 will increase the number of notices of violations and permitting issues associated with disturbance of human remains and archeological resources.
2. We assume the exemption from the State Environmental Policy Act (SEPA) review will increase utility projects.
3. Without SEPA review, we assume that project proponents will not identify when these projects are occurring within recorded archeological sites and therefore, they will proceed without the appropriate permit and reviews to prevent disturbance of these sites. This will result in increased DAHP enforcement actions.
4. We assume 0.2 AAG and 0.1 LA in FY2013 and in each FY thereafter for increased legal services for DAHP.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years		0.6	0.3	0.4	0.4
A-Salaries and Wages		41,178	41,178	45,293	45,293
B-Employee Benefits		12,108	12,108	13,260	13,260
C-Personal Service Contracts		700	700	2,000	2,000
E-Goods and Services		19,444	19,444	23,303	23,303
G-Travel		880	880	980	980
J-Capital Outlays		1,200	1,200	1,325	1,325
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$0	\$75,510	\$75,510	\$86,161	\$86,161

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 2012	FY 2013	2011-13	2013-15	2015-17
Assistant Attorney General	82,284		0.4	0.2	0.3	0.3
Legal Assistant II	41,316		0.2	0.1	0.1	0.1
Total FTE's	123,600		0.6	0.3	0.4	0.4

III. C - Expenditures By Program (optional)

Program	FY 2012	FY 2013	2011-13	2013-15	2015-17
Agriculture and Health Division (AHD)		38,105	38,105	76,810	76,810
Ecology Division (ECY)		37,405	37,405	9,351	9,351
Total \$		75,510	75,510	86,161	86,161

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.

None.

Individual State Agency Fiscal Note

Bill Number: 2253 HB	Title: SEPA	Agency: 355-Dept of Arch and Hist Preservation
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Part I: Estimates

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No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2012	FY 2013	2011-13	2013-15	2015-17
Account					
General Fund-Federal 001-2	0	22,905	22,905	46,010	46,010
Washington State Heritage Center Account-State 14e-1	0	15,200	15,200	30,800	30,800
Total \$	0	38,105	38,105	76,810	76,810

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: Anna Jackson	Phone: 360-786-7194	Date: 01/10/2012
Agency Preparation: Loren Doolittle	Phone: 360-586-3072	Date: 02/21/2012
Agency Approval: Randy Todd	Phone: 360-664-7667	Date: 02/21/2012
OFM Review: Chris Stanley	Phone: (360) 902-9810	Date: 02/21/2012

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.

Section 25: The Attorney General estimates the repeal of RCW 36.70B.110 will increase litigation services billable to DAHP.

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.

No cash receipt impact

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.

The AG estimated increased annual billings to DAHP of \$38,105 in FY 13, and \$38,405 each year thereafter.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Personal Service Contracts					
E-Goods and Services		38,105	38,105	76,810	76,810
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$0	\$38,105	\$38,105	\$76,810	\$76,810

Part IV: Capital Budget Impact

NONE

No 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.

No new rule impact

Individual State Agency Fiscal Note

Bill Number: 2253 HB	Title: SEPA	Agency: 461-Department of Ecology
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	0.0	2.1	1.1	1.0	0.8
Account					
General Fund-State 001-1	0	297,580	297,580	236,487	195,658
Total \$	0	297,580	297,580	236,487	195,658

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: Anna Jackson	Phone: 360-786-7194	Date: 01/10/2012
Agency Preparation: Gordon Wiggerhaus	Phone: 360-407-6994	Date: 02/02/2012
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 02/02/2012
OFM Review: Linda Steinmann	Phone: 360-902-0573	Date: 02/02/2012

Request # 12-024-2

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.

HB 2253 is concerned with categorical exemptions, fees, and streamlining for the State Environmental Policy Act (SEPA).

Categorical Exemptions and Environmental Checklist

Section 1 would create a “Categorical Exemption Board” (CEB) to be the rule making body for categorical exemptions to SEPA. The CEB would take over this function from the Dept. of Ecology. The CEB would be chaired by the director of Ecology and have seven members. Members who are not state employees are entitled to reimbursement for travel expenses. The bill would require that the Dept. of Ecology provide “clerical and research staff support” to the board. Such support would have to be provided within existing resources.

Section 2 would amend RCW 43.21C, SEPA, to specify the scope of the CEB's powers. The CEB would: 1) define actions that are not to be considered as major actions significantly affecting the quality of the environment (these are the categorical exemptions); and 2) write the environmental review checklist (WAC 197-11-960). Basically, these duties would be transferred from Ecology to the CEB. The CEB would periodically update the exemptions and the checklist. The CEB could not lower the limit for categorical exemptions that existed on July 1, 2011, and could not adopt rules related to climate change.

Section 3 would require the CEB to revise the categorical exemptions by December 31, 2012. The CEB would also have to further revise the categorical exemptions by December 31, 2013 to “include higher default levels and broader flexible levels” than those currently in WAC 197-11-800(1)(c). These actions would require rule making.

Section 11 lists a number of categorical exemptions for cities and counties planning under the state Growth Management Act. Different exemptions are provided for proposed actions within an urban growth area and for proposed actions outside an urban growth area. The list of exemptions includes:

- Several non-project actions would be exempted, including regulation changes that would be required to bring development regulations in line with comprehensive plans, shoreline master programs, and state building codes.
- Categorical exemption thresholds for minor construction would be revised; these include single-family housing, multifamily housing, offices, schools, commercial structures with less than a threshold level of square feet of space which differs between Urban Growth Areas (UGAs) and non-UGAs.
- Variable thresholds would be provided for fully-planning jurisdictions and designated UGAs.

Currently, a single set of categorical exemptions are included in the adopted SEPA rule; there is no distinction between UGA and non-UGA. The current exemptions in rule would be expanded in Section 11 to include both new types of actions and higher values for size-based exemptions.

Section 12 is concerned with the environmental checklist used for SEPA review. A lead agency could identify where existing local regulations adequately cover a question on the checklist. This would be a substitute for applicants’

responding to each question with information on their particular project.

Section 13 would require the Dept. of Ecology to amend WAC 197-11-960, Environmental Checklist, to incorporate the provisions of Section 12 (a drafting error in the bill indicates that the section to be incorporated is Section 11). This rule making would have to be completed by December 31, 2012.

Section 18 would amend RCW 43.21C.110, SEPA Rules, to transfer categorical exemptions and environmental checklist rule making from Ecology to the CEB.

Fees

Sections 8 and 9 would move RCW 43.21C.420(6) to a separate section of RCW 43.21C. This subsection would allow cities to recover costs of nonproject EISs in some manner, including fees.

Sections 14 and 15 would allow the Growth Management Planning and Environmental Review Fund to make loans to local governments. Under current law, the fund is used for SEPA project review and is administered by the Dept. of Commerce. Section 15 would amend RCW 36.70A.500., Growth Management Planning and Environmental Review Fund, to add a criteria to the list of criteria that are considered in awarding grants/loans from the fund. The section would add “environmental review that addresses the impacts of increased density or intensity of comprehensive plans, subarea plans, or receiving areas designated by a city or town under the regional transfer of development rights program.”

Sections 16 and 17 would amend RCW 82.02, General Provisions for State Taxes, to allow local governments to collect fees for SEPA reviews. Section 16(2) would state that local governments “that conduct detailed environmental review under chapter 43.21C RCW, integrated with a comprehensive plan or subarea plan within urban growth areas, are authorized to impose environmental fees on development activity as part of the financing for environmental review conducted under chapter 43.21C RCW on a comprehensive plan or subarea plan.”

Added Exemptions

Section 6 is concerned with the infill exemption from SEPA. Section 6 would amend existing provisions of RCW 43.21C.229 that allow cities and counties to categorically exempt certain infill development from SEPA review. Currently, the types of development eligible for the exemption are residential and mixed use (residential along with other uses, such as commercial). Section 6 would broaden the eligible types of land uses to include commercial (under 10,000 square feet) and industrial development not associated with residential use. The current statute requires that an EIS must have been previously prepared on the city or county comprehensive plan. Section 6 would allow the infill exemption to apply if an EIS was prepared for the area where the exemption applies, and the EIS considered the use or intensity of use proposed for categorical exemption from SEPA review.

Section 7 would add a new exemption to SEPA for “projects designed exclusively to restore natural wildlife or fishery habitats or projects that serve as environmental mitigation for other projects.” The section lists some exceptions.

Section 10 would exempt electrical facilities of 115,000 volts or less from SEPA review. The SEPA categorical exemption for electrical facilities is currently contained in the SEPA rule, and limits exempted facilities to 55,000 volts. The exception related to lands covered by water in the existing rule is also included in this new section of the SEPA statute.

Housekeeping - Planned Actions

Sections 4 and 5 are chiefly a rearranging of a subsection of SEPA. RCW 43.21C.031 describes when an Environmental Impact Statement must be prepared. It also describes a specific type of environmental review called a “planned action.” The planned action provisions would be deleted from 43.21C.031 and moved to section 5.

Section 5 would contain the planned action provisions. Section 5(1)(e) would amend the provisions by allowing “essential public facilities” to be included in a development that is designated as a planned action. Section 5(3) would add more provisions to the process for designating a planned action.

Integrated SEPA and Project Review

Section 20 would add a new section to RCW 36.70B, Local Project Review, defining provisions for concurrent public notice for SEPA review and permit review for a development project. This section is a revision of provisions contained in RCW 36.70B.110, which would be repealed in Section 25.

Section 21 would delineate integrated development project review and comment provisions in RCW 36.70B.

Section 22 would delineate appeals procedures for concurrent SEPA and development project review.

Section 23 would apply the entirety of RCW 36.70B to those local governments that are at this time not required to follow this statute. These are the non-fully planning jurisdictions, which do not exceed the population thresholds identified in statute, or which voluntarily determine to use RCW 36.70A for local land use planning.

Section 24 would apply the integrated notice and review procedures in RCW 36.70B to non-fully planning jurisdictions.

Section 25 would repeal RCW 36.70B.110. The topics addressed in this section of statute are addressed in Sections 20-22 of this bill.

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.

The costs to Ecology (and the Categorical Exemption Board) of implementing this bill are driven by Sections 1, 2, 3, and 13. These sections would require the new Categorical Exemption Board to undertake two initial rule makings. The first would have to be completed in the July 1, 2012, to December 31, 2012, period. The second would have to be completed in the January 1, 2013, to December 31, 2013, period. The CEB would thereafter periodically undertake rule makings to update the categorical exemption rule. It is assumed that such rule makings would occur approximately every four years.

Section 13 would require Ecology to amend the SEPA rule to incorporate the requirements of Section 12. This work would be done in conjunction with the CEB rule making in order to lower rule making costs and coordinate the two rule makings. Costs of Sections 1, 2, 3, and 13 are combined in this cost estimate.

The costs of the initial rule makings would occur in all 12 months of FY13 and the first six months of FY14.

It is assumed that periodic rule makings would occur every four years after the end of the two initial rule makings. The start of work on the first of the periodic rule makings would be three years after January 1, 2014, or January 1, 2017, in FY17 (start three years after in order to complete rule making four years after). The cost would be similar to the initial 12 month rule making.

Board meeting assumptions:

1. Meet monthly for one day per month during two initial rule updates. Initial two rounds of updates per Section 3 would extend from July 1, 2012, to December 31, 2013.
 - a. Assume that stakeholder meetings and public hearings are included in these meetings.
 - b. Assume regular meetings in Olympia, with work sessions and hearings occasionally in other parts of the state.
2. Assume semi-annual, day-long meetings during periods that rulemaking is not underway. Topics assumed to include petitions from Board members and or petitions from outside parties.
3. Assume subsequent rule updates would occur every 4 years. Next update assumed to begin January 1, 2017. Assumed to require monthly meetings for one year.

Staff support for the CEB: Section 1(6) would require that:

- The Dept. of Ecology provide clerical and research staff support to the board.
- This support be provided within Ecology's existing resources at the level necessary for the board to fulfill its purpose.

For rule making Ecology staff would be doing the analysis, drafting, scheduling hearings and meetings, etc. required to update the rules. The Board would set direction, review materials, meet with stakeholders and take action on rules.

Staff would perform two types of work: 1) clerical and research support; and 2) rulemaking tasks.

The following would be required for clerical and research staff and rulemaking staff during initial rule making:

Environmental Planner 4 (59-L) - 0.25 FTE FY13, 0.13 FTE FY14, 0.13 FTE FY17. SEPA lead. Takes lead on

drafting rule with CEB direction. Organizes stakeholder input. Provide expert knowledge of SEPA statute, rule, and processes.

Environmental Specialist 2 (43-L) - 0.25 FTE FY13, 0.13 FTE FY14, 0.13 FTE FY17. Perform staff-level SEPA work to support SEPA lead.

Secretary Senior (33-L) - 0.25 FTE FY13, 0.13 FTE FY14, 0.13 FTE FY17. Clerical support for SEPA staff and CEB.

Wash. Mgmt. Service 2 (\$7,500 per month) - 0.25 FTE FY13, 0.13 FTE FY14, 0.13 FTE FY17. Supervise SEPA staff.

One FTE of an Economic Analyst 3 (61-L) would be required for four months to write a cost-benefit analysis and a small business economic impact statement for each of the two SEPA rule revisions (0.33 FTE in FY13 and 0.33 FTE in FY14). Economic analysis for rule making that would start again in the second half of FY17 would occur toward the end of rule making in FY18 (beyond the years in the fiscal note).

Ecology would require support from the Attorney General's Office of 0.2 AAG FTE in FY13 (\$37,405), 0.05 AAG FTE in FY14 (\$9,351), and 0.05 AAG FTE in FY17 (\$9,351).

The following would be required for clerical and research staff during periods of minor rule making:

In periods between major rule makings, the CEB would carry out periodic updates of SEPA rules (required by Section 2(2) & (3)). These staff would basically perform the same job duties that they would perform for the initial two rule makings. These rule makings would be less extensive, so less staff support is needed.

Environmental Planner 4 (59-L) - 0.03 FTE FY14, 0.03 FTE FY17, 0.06 FTE FY15, 0.06 FTE FY16

Environmental Specialist 2 (43-L) - 0.03 FTE FY14, 0.03 FTE FY17, 0.06 FTE FY15, 0.06 FTE FY16

Secretary Senior (33-L) - 0.03 FTE FY14, 0.03 FTE FY17, 0.06 FTE FY15, 0.06 FTE FY16

Wash. Mgmt. Service 2 (\$7,500 per month) - 0.03 FTE FY14, 0.03 FTE FY17, 0.06 FTE FY15, 0.06 FTE FY16

The CEB Board Chair is the Ecology Director or designee. It is assumed that the Director would delegate this work to a WMS3. 0.5 FTE of a WMS3 would be required in FY13, 0.31 FTE in FY14, 0.13 FTE in FY15 and FY16, and 0.31 FTE in FY17. The Chair's work would include:

- o Agendas and work plan for board.
- o Review and determine board action on outside petitions.
- o Communication with board members and stakeholder outreach between meetings.

Subsection 1(6) would require Ecology to provide clerical and research staff support to the Categorical Exemption Board using existing Ecology staff and resources. This support would have to be provided at a level necessary for the board to fulfill its purpose. In order to use existing staff and resources, Ecology would provide staff for the CEB work by redirecting staff from the following work:

- SEPA Technical Staff--1.0 FTE in FY13 and FY14, 0.40 FTE in FY15 and FY16, and 1.0 FTE in FY17.

Ecology does not currently have SEPA rulemaking staff capacity due to previous SEPA budget cuts. Therefore, existing

staff doing other SEPA work would be redirected to do rulemaking. During FY13 this redirected work would result in no SEPA assistance on major projects, no response to inquiries from local and state agencies on implementing SEPA, and no SEPA trainings. As a result, there would be no help with problem solving legal and technical issues that occur on SEPA project reviews. This would result in instances of slower SEPA reviews by agencies and local governments across the state, and hence a delay on projects that create jobs and meet infrastructure needs. During FY14, there would be a minimal level of SEPA assistance and response to inquiries.

- 401 Permitting Staff --0.5 FTE in FY13. Ecology would curtail or slow the processing of 401 permits as a result of this redirected staff. This would result in increased permit processing times and reduced review or management of projects that impact wetlands, lakes and estuaries. There would be a reduction in Ecology participation in federal permitting activities to ensure that state water quality interests are identified and considered. Reduces 401 staff by approximately 5 percent.

Rulemaking costs for an Economic Analyst in FY13 and FY14 would be absorbed by reducing 0.30 FTE of a 401 permitting position in those years. Costs for AAG support in FY13, FY14, and FY17 would be absorbed by reducing an additional 0.30 FTE in FY13, and 0.1 FTE in FY14 and FY17 of a 401 permitting position.

Notes on costs by object:

Salary estimates are based on current actual rates in effect for each job classification, and are calculated at the step corresponding to the experience level required.

Employee Benefits are calculated at the agency average of 33.1% of salaries.

Goods and Services standard costs are calculated at the agency average rate of \$5,008 per direct program FTE. Goods and Services also includes AGO support of 0.2 AAG FTE in FY13 (\$37,405), 0.05 AAG FTE in FY14 (\$9,351), and 0.05 AAG FTE in FY17 (\$9,351), at the standard cost of \$187,024 per FTE per year.

Travel expenditures are calculated at the agency average rate of \$1,097 per direct program FTE.

Travel reimbursement for CEB members is estimated at \$1,058 per meeting as follows:

Members of the CEB who are not state employees are entitled to reimbursement of their travel expenses.

The cost estimate assumes that five members would be eligible travel cost reimbursement. Assume that two members travel from eastern Washington and that three travel from western Washington.

Assume one flies from Spokane: flight cost is \$180; parking \$30; per diem food \$61; lodging \$88; and rental car \$59; for an estimated \$418 per meeting.

Assume one drives from Yakima: vehicle mileage reimbursement is \$167; per diem food \$61; and lodging \$88; for an estimated \$316 per meeting.

Assume three drive from Renton, on average: vehicle mileage reimbursement is \$47; per diem food \$61 per person; for an estimated \$108 per person; times 3 = \$324 per meeting.

There would be 12 meetings in FY13 (\$12,696), 7 meetings in FY14 (\$7,406), 2 meetings in FY15 (\$2,116), 2 meetings in FY16 (\$2,116), and 7 meetings in FY17 (\$7,406).

Start-up Equipment costs for the first year are calculated at the agency average rate of \$2,666 per direct program FTE based on current costs for basic computer equipment and an office chair.

Agency Administrative Overhead is calculated at the federal indirect rate of 34.4% 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 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years		2.1	1.1	1.0	0.8
A-Salaries and Wages		129,378	129,378	116,023	93,490
B-Employee Benefits		42,824	42,824	38,404	30,946
C-Personal Service Contracts					
E-Goods and Services		46,570	46,570	17,614	15,962
G-Travel		14,692	14,692	11,323	10,961
J-Capital Outlays		4,879	4,879		1,493
N-Grants, Benefits and Client Services					
P-Debt Service					
S-Interagency Reimbursements					
9-Agency Administrative Overhead		59,237	59,237	53,123	42,806
Total:	\$0	\$297,580	\$297,580	\$236,487	\$195,658

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 2012	FY 2013	2011-13	2013-15	2015-17
Economic Analyst 3	67,668		0.3	0.2	0.2	
Environmental Planner 4 (59-L)	64,428		0.3	0.1	0.1	0.1
Environmental Specialist 2 (43-L)	43,368		0.3	0.1	0.1	0.1
Fiscal Analyst 2			0.3	0.1	0.1	0.1
Secretary Senior (33-L)	33,984		0.3	0.1	0.1	0.1
Washington Management Service 2	81,600		0.3	0.1	0.1	0.1
Washington Management Service 3	102,000		0.5	0.3	0.2	0.2
Total FTE's	393,048		2.1	1.1	1.0	0.8

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.

Section 3 would require the CEB to revise the SEPA categorical exemptions by December 31, 2012. The CEB would also have to further revise the categorical exemptions by December 31, 2013 to “include higher default levels and broader flexible levels” than those currently in WAC 197-11-800(1)(c). The CEB would thereafter periodically undertake rule makings to update the categorical exemption rule. It is assumed that such rule makings would occur approximately every four years.

Section 13 would require the Dept. of Ecology to amend WAC 197-11-960, Environmental Checklist, to incorporate the provisions of Section 12 (a drafting error in the bill indicates that the section to be incorporated is Section 11). This rule making would have to be completed by December 31, 2012.

Request # 12-024-2

Individual State Agency Fiscal Note

Bill Number: 2253 HB	Title: SEPA	Agency: 477-Department of Fish and Wildlife
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Part I: Estimates

☐

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	0.0	0.1	0.1	0.1	0.1
Account					
General Fund-State 001-1	0	(10,600)	(10,600)	(21,200)	(21,200)
Total \$	0	(10,600)	(10,600)	(21,200)	(21,200)

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: Anna Jackson	Phone: 360-786-7194	Date: 01/10/2012
Agency Preparation: Samantha Smithingell	Phone: (360) 902-2202	Date: 01/17/2012
Agency Approval: Owen Rowe	Phone: (360) 902-2204	Date: 01/17/2012
OFM Review: Chris Stanley	Phone: (360) 902-9810	Date: 01/17/2012

Request # 12-FN009-2

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.

Section 7 exempts fish and wildlife restoration projects from SEPA review.

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.

Section 7. The removal of SEPA review requirements for salmon restoration projects would generate a small negative fiscal impact for WDFW. This eliminates a portion of WDFW workload for approximately 20 WDFW projects annually on which we currently spend approximately 25 days of Fish and Wildlife Biologist 3 staff time, or 0.1 FTE, to prepare environmental checklists and completing SEPA review documents. This reduction saves WDFW approximately \$10,600 total per fiscal year.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years		0.1	0.1	0.1	0.1
A-Salaries and Wages		(5,800)	(5,800)	(11,600)	(11,600)
B-Employee Benefits		(2,100)	(2,100)	(4,200)	(4,200)
C-Personal Service Contracts					
E-Goods and Services		(2,700)	(2,700)	(5,400)	(5,400)
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$0	\$(10,600)	\$(10,600)	\$(21,200)	\$(21,200)

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 2012	FY 2013	2011-13	2013-15	2015-17
Fish and Wildlife Biologist 4	58,320		0.1	0.1	0.1	0.1
Total FTE's	58,320		0.1	0.1	0.1	0.1

Part IV: Capital Budget Impact

NONE

Request # 12-FN009-2

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.

Individual State Agency Fiscal Note

Bill Number: 2253 HB	Title: SEPA	Agency: 490-Department of Natural Resources
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Part I: Estimates

☐

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	0.0	0.4	0.2	0.1	0.0
Account					
General Fund-State 001-1	1,400	11,200	12,600	7,200	3,000
Forest Development Account-State 014-1	700	5,900	6,600	3,700	1,600
Resources Management Cost Account-State 041-1	1,300	11,500	12,800	7,200	3,000
Surface Mining Reclamation Account-State 04h-1	300	2,500	2,800	1,500	600
Total \$	3,700	31,100	34,800	19,600	8,200

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: Anna Jackson	Phone: 360-786-7194	Date: 01/10/2012
Agency Preparation: Pouth Ing	Phone: (360) 902-1021	Date: 01/26/2012
Agency Approval: Lenny Young	Phone: (360) 902-1744	Date: 01/26/2012
OFM Review: Chris Stanley	Phone: (360) 902-9810	Date: 01/26/2012

Request # 12-07-1

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.

Section 1 creates the categorical exemption board to serve as the rule-making body to update the categorical SEPA exemptions. The board would consist of seven members of governmental entities or their designees including the Commissioner of Public Lands.

Section 2 requires the categorical exemption board to ensure that categorical exemptions from SEPA law and the checklist process are updated periodically to reflect current conditions, reduce duplicative regulations, and contain costs while still meeting the review objectives of SEPA.

Section 10 adds new section to chapter 43.21C RCW to add utility-related categorical exemptions.

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.

No impact.

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 1 creates the categorical exemption board to serve as the rule-making body to update the categorical SEPA exemptions. The board would consist of seven members of governmental entities or their designees including the Commissioner of Public Lands.

Staff time required:

Environmental Specialist 5 and Administrative Assistant 2: Review proposed new rules and make decisions on them, as well as conducting research and coordinating within DNR with respect to specific program impacts resulting from any particular rule change proposal. Additionally, to the extent any additional coordination with local government is required as the result of changes to SEPA processing.

Positions required for the above are needed in the following fiscal years:

Environmental Specialist 5 – FY12 (.25 Staff Month), FY13 (2 Staff Months), FY14 (1 Staff Month), FY15 thru FY17 (.25 Staff Month).

Administrative Assistant 2 - FY12 (.25 Staff Month), FY13 (2 Staff Months), FY14 (1 Staff Month), FY15 thru FY17 (.25 Staff Month).

SEPA represents Forest Practice Program, Forest Resource and Conservation Program, and Surface Mining hence the funding distribution of GF-S, FDA, RMCA, and Surface Mining.

Salaries and benefits for staff are calculated based on FY11 rates.

Goods and services figures are based on program average costs.

Administrative cost of 27% is applied to salary, benefits, standard goods and services, and travel. 0.1 FTE in FY 13 for overhead is represented as a Fiscal Analyst 2 position.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	0.0	0.4	0.2	0.1	0.0
A-Salaries and Wages	2,000	16,600	18,600	10,800	4,400
B-Employee Benefits	800	6,500	7,300	4,200	1,800
C-Personal Service Contracts					
E-Goods and Services	100	1,500	1,600	400	200
G-Travel		100	100		
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-Administrative Costs	800	6,400	7,200	4,200	1,800
Total:	\$3,700	\$31,100	\$34,800	\$19,600	\$8,200

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 2012	FY 2013	2011-13	2013-15	2015-17
Administrative Assistant 2	36,756	0.0	0.2	0.1	0.1	0.0
Environmental Specialist 5	66,420	0.0	0.2	0.1	0.1	0.0
Fiscal Analyst 2	45,828		0.1	0.1		
Total FTE's	149,004	0.0	0.4	0.3	0.1	0.0

Part IV: Capital Budget Impact

NONE

No 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.

Section 10 adds new sections to chapter 43.21C RCW to add utility-related categorical exemptions. DNR assumes it will be necessary for the Forest Practices Board to adopt amendments to WAC 222-16-050 "Class IV-special" and possibly chapter 222-10 WAC, SEPA guidelines, to account for the new utility-related exemptions.

LOCAL GOVERNMENT FISCAL NOTE

Department of Community, Trade and Economic Development

Bill Number: 2253 HB	Title: SEPA
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

☒ Cities: Cities and counties would experience substantial (greater than \$1 million) decreases in both revenue and expenditures resulting from reduced project-level SEPA reviews

☒ Counties: Same as above

☐ Special Districts:

☐ Specific jurisdictions only:

☐ Variance occurs due to:

Part II: Estimates

☐ No fiscal impacts.

☐ Expenditures represent one-time costs:

☒ Legislation provides local option: Jurisdictions would have expanded authority to recover the cost of conducting area-wide SEPA

☒ Key variables cannot be estimated with certainty at this time: reviews Number and cost of area-wide SEPA reviews, number on project SEPA reviews no longer conducted due to increased categorical exemptions

Estimated revenue impacts to:

Indeterminate Impact

Estimated expenditure impacts to:

Indeterminate Impact

Part III: Preparation and Approval

Fiscal Note Analyst: Jaime Kaszynski	Phone: 360-725-2717	Date: 02/03/2012
Leg. Committee Contact: Anna Jackson	Phone: 360-786-7194	Date: 01/10/2012
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 02/03/2012
OFM Review: Linda Steinmann	Phone: 360-902-0573	Date: 02/03/2012

Part IV: Analysis

A. SUMMARY OF BILL

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

Section 1 is added to RCW 43.21C (state environmental policy act, or SEPA) to establish the categorical exemption board (CAB) as the rule-making body for provisions of SEPA indicated in Section 2. The CAB would include planning directors from a city and a county, appointed by the governor, “responsible for the implementation of this chapter for his or her [jurisdiction].”

Section 2 provides the rule-making powers of the CAB, including governmental actions that do not significantly affect the quality of the environment, and the environmental checklist process outlined in WAC 197-11-960. The board would convene upon request of any board member to review categorical exemptions, and could update exemptions after December 31, 2013 and periodically thereafter. Actions categorically exempted by the board could not be conditioned or denied under SEPA.

Section 3 would direct the CAB to make changes to categorical exemptions by December 31, 2012, and further changes by December 31, 2013 which must include higher default levels and broader flexible levels than specified in WAC 197-11-800(1)(c) as of the section’s effective date.

Section 5 provides cities, towns and counties planning under the growth management act (GMA) additional authority related to planned actions.

Section 6 amends RCW 43.21C.229 to expand the type of categorical exemptions cities or counties planning under the GMA may authorize for infill development to include commercial development under 10,000 square feet and industrial development.

Section 7 provides SEPA exemptions for natural wildlife or fishery restoration projects and certain environmental mitigation projects.

Section 8 authorizes a city, town or county that prepares a nonproject SEPA review under RCW 43.21C.030(2) to recover the cost of the review through: financial assistance under RCW 36.70A.490; funding from private sources; or by enacting an ordinance authorizing the assessment of reasonable and proportionate fees upon subsequent development that makes use of and benefits from the nonproject SEPA review.

Section 10 provides SEPA exemptions for certain utility projects.

Section 11 provides SEPA categorical exemptions for certain projects in cities, towns and counties planning under the GMA, and allows jurisdictions to lower the exemption levels from those provided by ordinance. Certain amendments to development regulations and technical codes would be exempt. Within urban growth areas, the following projects would be exempt: single family residential developments with 50 or fewer units, multifamily developments with 80 or fewer units, specified buildings of 30,000 or fewer square feet of floor area with 100 or fewer parking spaces, and landfill or excavation of 1,200 cubic yards or fewer. Outside of urban growth areas, the following projects would be exempt: single family residential developments with 25 or fewer units, agricultural structures other than feed lots up to 50,000 square feet, specified buildings of 15,000 or fewer square feet of floor area with 50 or fewer parking spaces, and landfill or excavation of 1,000 cubic yards or fewer.

Section 12 would authorize the lead SEPA agency to identify instances where SEPA checklist questions are adequately covered by existing local regulations, plans or authority, and to provide information necessary to answer those specific question.

Section 14 would amend RCW 36.70A.490 to authorize the growth management planning and environmental review fund (PERF) to provide loans (as well as grants) and provide that repayment of such loans be returned to the fund.

Section 15 would amend RCW 36.70A.500 to authorize the use of PERF funds for certain area-wide environmental reviews.

Section 16 would be added to RCW 82.02 to authorize cities, towns and counties that conduct SEPA reviews integrated with area-wide growth management plans to impose reasonable and proportionate environmental fees on development activity to finance the cost of the area-wide integrated SEPA review.

Sections 20 to 25 would be added to RCW 36.70B to require notice to be provided at least 15 days prior to an open record predecision hearing, and include specified elements in a format determined by the local government. The local government would be required to notify certain affected or interested parties directly, and also post notice at the affected property for site-specific proposals, and publish a summary notice in a local newspaper or land use bulletin. These procedures would be integrated with SEPA review as specified, and applicable to all counties and cities.

BACKGROUND:

Cities and counties act as lead SEPA officials on non-exempt development projects and non-project actions within their jurisdictions. In most jurisdictions, a project developer prepares a detailed SEPA checklist describing the potential impacts of the project on the built and natural environment. The city or county SEPA official reviews the checklist and may issue a Determination of Non-Significance (DNS), a Mitigated Determination of Non-Significance (MDNS), or may require the preparation of a full Environmental Impact Statement (EIS).

A project designated as DNS may receive that designation because it actually has no impacts, or it may have impacts that can be addressed through conditions imposed on the project in accordance with the jurisdiction's existing development standards and regulations. A project with impacts that cannot be adequately addressed under existing development rules would need an individual mitigation plan, and so would require the SEPA official to issue a MDNS or EIS.

The proposed legislation would expand categorical SEPA exemptions for a number of different types of projects, and authorize the CAB to further expand exemptions. Cities and counties do not prepare SEPA determinations for categorically-exempt projects, but do review such projects in a variety of ways. For example, projects generally require a building permit and may require other permits such as a Shoreline Development Permit, conditional use permit, etc.

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.

The proposed legislation would likely reduce city and county expenditures incurred for reviewing SEPA checklists by a substantial (more than \$1 million yearly) but indeterminate amount statewide. Individual jurisdictions choosing to conduct area-wide SEPA reviews would experience increased costs (estimated to average \$500,000, as described below), which could be fully or partly offset by new revenue sources.

CATEGORICAL EXEMPTIONS

No data are available to determine the number of projects that are constructed annually which would become categorically exempt from SEPA checklist review under the proposed legislation. Data on the frequency of local development regulation and technical code amendments are similarly unavailable. However, a recent survey by the Association of Washington Cities (AWC) reported an average of about 1,543 SEPA determinations of nonsignificance (DNS) yearly across a sample of 47 cities and four counties. Extrapolating from these figures, the increased categorical exemptions provided in the proposed legislation, or adopted by the CAB, could reduce the number of SEPA reviews statewide by several thousand per year. In general, SEPA checklist review fees provide only partial recovery of the jurisdiction's cost of conducting the review, therefore expenditure reductions are anticipated to exceed the fee revenue reductions described below, resulting in a net decrease of local expenditures.

Actual reductions cannot be determined as they would depend on the number of projects that would no longer require SEPA review, the complexity of each project, and the process by which such projects are reviewed in each jurisdiction, including the degree to which SEPA review is integrated with other review or permitting processes. Many jurisdictions integrate SEPA review with other reviews such as building permits, shoreline development permits, and other discretionary permitting processes. Jurisdictions would continue to perform such reviews on projects that would become exempt from SEPA review under this legislation, and could intensify such reviews in some cases.

AREA-WIDE ENVIRONMENTAL REVIEWS

The Department of Commerce indicates that fewer than 10 "planned actions" have been undertaken in recent years but that they occurred more frequently in the past when dedicated grant funds (from the growth management planning and environmental review fund, or PERF) were available to assist jurisdictions with planning and EIS expenses. Local government fiscal note program staff therefore assume that such actions would be undertaken more frequently in the future under the proposed legislation, which would authorize new revenue options to recover the cost of the review.

A 2003 report from Commerce (then CTED) examined a number of planned actions, many of which received PERF grants. Direct costs incurred by jurisdictions ranged from \$170,000 to \$660,000 and averaged \$388,000. Since these figures are based on projects that took place roughly 10 years ago, it is assumed for the purpose of this local government fiscal note that a city choosing to adopt area or subarea plans and develop nonproject EISs as provided by the proposed legislation would incur costs ranging from \$225,000 to \$750,000, with an average cost of about \$500,000. Actual costs would vary widely depending on the size of the area involved, the complexity of environmental issues, the use to which the area would be put, etc. Overall impacts would depend on the extent to which the revenue options in the proposed legislation result in increased use of such reviews, which would remain a local option.

PROCEDURAL CHANGES & CAB PARTICIPATION

In addition to these substantive SEPA-review related expenditure impacts, some jurisdictions would incur short-term expenditure increases to

conform their permit and SEPA review processes to the requirements of sections 20-25, and could experience longer-term expenditure reductions from the consolidated processing procedures. The short-term cost of adopting changes are assumed by local government fiscal note program staff to be minor (less than \$50,000) for most jurisdictions. Finally, one city and one county would incur minor expenditures of staff time for their planning directors to serve on the CAB board established by Section 1.

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.

The proposed legislation would reduce SEPA checklist review fees charged of individual project developers by increasing categorical exemption thresholds, and would provide cities, towns and counties with additional revenue authority to charge fees to recover the cost of area-wide nonproject SEPA reviews. Revenue decreases and increases could each be substantial (greater than \$1 million) over time, and could result in either net increases or decreases in SEPA review-related fee revenue for individual jurisdictions.

While overall impacts cannot be reasonably estimated, fee revenue would likely decline overall, particularly in the first several years after passage. Reduced fees from project-based SEPA reviews on newly-exempted projects would take effect in the near-term, while increased fees from area-wide SEPA reviews would only occur after jurisdictions adopt enabling ordinances, conduct the reviews, and charge fees of subsequent development activity within the area.

CATEGORICAL EXEMPTIONS

The proposed legislation would increase categorical exemptions for a variety of projects, so would likely reduce city and county revenue from SEPA checklist fees by a substantial (more than \$1 million yearly), but indeterminate amount. Data are not available to determine the number of projects that would no longer require SEPA review. However, assuming that 80 percent of projects currently receiving a DNS would become exempt under the proposed legislation, jurisdictions that participated in the AWC survey described above would experience a revenue reduction of about \$477,713 $[(1,543 \times 0.8) \times \$387 \text{ per SEPA checklist} = \$477,713]$ per year. This figure is based on an average SEPA checklist review fee of \$387, which was derived from AWC's 2008 Tax and User Fee Survey. Extrapolating from this figure, overall revenue reductions could exceed \$1 million annually, statewide.

AREA-WIDE ENVIRONMENTAL REVIEWS

The proposed legislation would authorize local governments preparing SEPA reviews for certain area-wide nonproject actions to recover the cost of preparing the review through fees charged of subsequent developers, so long as the fees are reasonable and proportional. Jurisdictions could also conduct such reviews using upfront funds from private sources, or through PERF funds if available. As noted above, the cost of an area-wide review is estimated to range from \$225,000 to \$750,000, averaging \$500,000. These figures therefore also represent the amounts that individual jurisdictions could seek as upfront funds from private sources or PERF funds, or that could be recovered from late-comer fees on subsequent development. Overall revenue increases from cost-recovery or subsidization of area-wide SEPA reviews cannot be reasonably estimated as they would depend on the frequency and cost with which the review are conducted, and the length of time between the review and subsequent development activity.

ECONOMIC IMPACTS

The proposed legislation could indirectly accelerate the construction of projects in various jurisdictions by decreasing or eliminating the cost and potential delay attendant with SEPA review of those projects. The economic impacts of any such increase in construction projects, including tax revenue increases to individual jurisdictions, are speculative in nature and cannot be reasonably estimated.

SOURCES:

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--Association of Washington Businesses
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