

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 6172 SB	<b>Title:</b> Clean water act/prelim certs
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## Estimated Cash Receipts

NONE

## Estimated Expenditures

Agency Name	2015-17			2017-19			2019-21		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Department of Transportation	.0	0	0	.0	0	0	.0	0	0
Department of Ecology	4.8	0	1,113,641	7.5	0	1,285,254	7.5	0	1,285,254
Department of Fish and Wildlife	.0	0	0	.0	0	0	.0	0	0
Department of Natural Resources	.0	0	0	.0	0	0	.0	0	0
<b>Total</b>	<b>4.8</b>	<b>\$0</b>	<b>\$1,113,641</b>	<b>7.5</b>	<b>\$0</b>	<b>\$1,285,254</b>	<b>7.5</b>	<b>\$0</b>	<b>\$1,285,254</b>

## Estimated Capital Budget Impact

NONE

<b>Prepared by:</b> Linda Steinmann, OFM	<b>Phone:</b> 360-902-0573	<b>Date Published:</b> Final 2/ 9/2016
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\* See Office of the Administrator for the Courts judicial fiscal note

\*\* See local government fiscal note

FNPID: 43854

FNS029 Multi Agency rollup

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 6172 SB	<b>Title:</b> Clean water act/prelim certs	<b>Agency:</b> 405-Department of Transportation
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## Part I: Estimates

☒ No Fiscal Impact

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact: Sarah Sauter	Phone: (360) 786-7400	Date: 01/12/2016
Agency Preparation: Eric Wolin	Phone: 360-705-7487	Date: 01/14/2016
Agency Approval: Keith Metcalf	Phone: 360-705-7032	Date: 01/14/2016
OFM Review: Jim Albert	Phone: (360) 902-0419	Date: 01/15/2016

## 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.*

This bill requires the Department of Ecology, when it reviews a project for certification under section 401 of the federal clean water act, to issue a preliminary version of the certification no later than thirty days after receiving a complete application for the project.

### 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.*

None.

### 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.*

There is no anticipated fiscal impact to WSDOT. WSDOT funds staff (liaisons) at the Department of Ecology to issue 401 decisions for certain WSDOT projects. However, over the past six years, they have issued an average of only three individual 401 water quality certifications per-year. WSDOT assumes the new requirement applies to individual water quality certifications only, and further assumes the new requirement can be met within existing resources.

## Part III: Expenditure Detail

## Part IV: Capital Budget Impact

## Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 6172 SB	<b>Title:</b> Clean water act/prelim certs	<b>Agency:</b> 461-Department of Ecology
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## Part I: Estimates

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No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Expenditures from:

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years	0.0	9.7	4.8	7.5	7.5
<b>Account</b>					
State Toxics Control Account-State 173-1	0	1,113,641	1,113,641	1,285,254	1,285,254
<b>Total \$</b>	0	1,113,641	1,113,641	1,285,254	1,285,254

### 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: Sarah Sauter	Phone: (360) 786-7400	Date: 01/12/2016
Agency Preparation: Jessica Moore	Phone: 360-407-6994	Date: 02/09/2016
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 02/09/2016
OFM Review: Linda Steinmann	Phone: 360-902-0573	Date: 02/09/2016

## 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.*

Under current law, federal Clean Water Act Section 401 water quality certifications by the state are triggered by federal actions that may affect water quality, such as a permit or license from the US Army Corps of Engineers, the Coast Guard, the Environmental Protection Agency or the Federal Energy Regulatory Commission (FERC). A wide variety of proposals may require 401 certifications, including projects for filling wetlands, dredging, docks and piers, hydro-electric dams, interstate pipelines, and bridges, roads and highways. The federal Clean Water Act Section 401 requires that water quality certifications be issued within 1 year of application.

Section 2 would require Ecology to issue a preliminary federal Clean Water Act (CWA) section 401 water quality certification within 30 days after receiving a complete application. Ecology would be permitted to issue a revised certification. However, the revised certification could not differ from the preliminary certification unless new information were to clearly and convincingly show the preliminary certification was erroneous.

Ecology assumes this bill would affect all section 401 applications to Ecology: about 450 per year.

### 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.*

Under current law, Ecology receives approximately 450 applications per year for projects that may require Section 401 certification. The Joint Aquatic Resource Permit Application (JARPA) is used to apply for most federal Clean Water Act (CWA) Section 401 water quality certifications as well as permits from other agencies such as a CWA section 404 permit from the US Army Corps of Engineers (Corps). Not all of the applications require action from Ecology because many are covered by a general permit issued by the Corps, some of which do not require a 401 certifications action by Ecology on an individual project. Currently Ecology issues approximately 200 Section 401 Actions (Individual Section 401 certifications, Letter of Verifications, No Further Action, Cancellations and Denials).

The applications are processed largely by staff in the water quality certification activity (#A037). However, some applications are for WSDOT projects that are processed by staff in the WSDOT permitting activity (#A058). In addition, applications for relicensing hydro-power dams are processed by staff in the nonpoint water pollution activity (#A049).

The approximately 450 applications and approximately 200 Section 401 actions per year are performed primarily by 5.35 FTEs of permit coordinator staff and 0.5 FTE permit application processing staff. Currently, only the most complex Ecology actions (individual 401 certifications) are tracked for the length of time needed to issue 401 certifications, with the current average individual 401 certification taking 199 days. Approximately 50 individual Section 401 certifications are issued per year. Due to a variable range of complexity on the projects applying for Section 401 certifications, the amount of staff hours to issue a Section 401 certification can vary widely. The most complex may take 100 hours or more. The least complex may take as little as 16 hours of staff

time.

Under current law, Ecology does not review applications until receipt of the Federal Agency notification. Such notification constitutes enough information to start review of an application. Ecology does not have guidance for a “complete application” for the purposes of issuing a 401 certification. Subsequent to the Federal Agency notification, Ecology works with the applicant to ensure all the other technical information needed to support a permit decision is submitted (e.g., wetland report/mitigation plan, sediment testing, or other technical reports supporting the application). In addition, Ecology ensures other processes are completed, such as the public notice requirements, State Environmental Policy Act (SEPA) review, and Department of Fish and Wildlife's (DFW's) Hydraulic Project Approval (HPA), when applicable.

For this bill, Ecology assumes that section 2 would require three new steps in Ecology's 401 permitting process: complete application review, preliminary 401 certification, and revised 401 certification. Ecology assumes that some preliminary 401s could be denied due to lack of information to resolve issues.

Ecology assumes that the Department of Fish and Wildlife's (DFW's) Hydraulic Project Approvals (HPAs) would be part of a complete application to Ecology, where the permitted activities could affect fish. (This would resolve the differences between DFW's 45-day permit time frame and Ecology's required 30-day time frame under this bill.) Washington State Department of Transportation (WSDOT) highway and ferry projects that require 401 certifications could be affected by the results of Ecology permits under this bill. Ecology assumes that WSDOT would review as necessary as a project proponent.

Ecology assumes this bill would require tracking for all section 401 applications to Ecology – about 450 per year; however, the permit workload would increase only for the 200 individual certifications acted on each year.

Fiscal impacts would be primarily to activity A037, except where noted. Some impacts to dam relicensing project Section 401 certifications issued under activity A049 also would occur. Any changes to the WSDOT permitting activity A058 would be supported in activity A037.

#### 1. Reviewing applications for completeness

a. Guidance development: Ecology assumes that the review of the complete application would require Ecology to develop specific guidelines for complete application requirements, including: meeting Public Notice requirements of WAC 173-225 before complete application; ensuring other applicable permit requirements are met – HPA and State Environmental Policy Act (SEPA) reviews if applicable, the Federal Agency action determined; ensure necessary technical information is submitted (e.g.: wetland report/mitigation plan, sediment testing, or other technical reports supporting the application). Ecology assumes that no rulemaking or stakeholder advisory committee would be required to determine complete application guidance. Based on past experience in development of guidance and policies, Ecology estimates that 0.10 FTE of a unit manager (WMS 1) and 0.10 FTE of an Environmental Specialist 3 (ES3) would be required one time, in FY17, to develop a new complete application guidance/policy.

b. Application tracking database: Ecology assumes that an application tracking database would be required to support the very rapid turnaround time necessary to meet the bill's 30-day deadline. This would be accomplished by contract. The tracking database would be needed to precisely track the elements of a complete application determination, and allow access and updates from multiple people. Those elements vary depending on the proposal, but would include the Federal Agency notification, technical information needed to support a permit decision is submitted (e.g., wetland report/mitigation plan, sediment testing and dredged material disposal plans,

or other technical reports supporting the application), public notice requirements of WAC 173-225, and determination that other applicable requirements of law, especially HPA and State Environmental Policy Act (SEPA) reviews. Those elements would not be able to be resolved during Ecology's 30-day period for a preliminary 401 certification, so they would have to be included as part of the complete application.

Based on the development of other similar tracking databases for application tracking, Ecology estimates this contract would cost \$275,000 in FY17. In addition, based on similar efforts, Ecology estimates that 0.30 FTE Information Technology Systems/Applications Specialist (ITS/AS6), 0.20 FTE Environmental Specialist 3 (ES3) and 0.20 FTE Unit Manager (WMS1) would be required, on a one time basis in FY17, to ensure business requirements are met in database development and for IT contract management. Based on similar efforts, Ecology estimates that \$25,000 for a maintenance contract would be required each biennium. The maintenance contract would address database bugs, changing IT requirements, as well as any process changes. Ecology staff would note and document any process changes as part of routine work tracking applications and reviewing complete applications.

c. Interim complete application tracking before application tracking database is in place: Applications would need to be tracked manually for completeness prior to completion of the database. On a temporary basis, 1.0 FTE Environmental Specialist 3 (ES3) would be needed in FY17, in addition to the ongoing FTES described under "Tracking Complete Applications" below.

d. Analyzing, processing, and tracking complete applications: 401 certification projects are complicated and often unique. 401 certification permit requirements are different depending on the nature of the project. The number of applications that are currently received is assumed to stay the same (~450 per year), but the amount of additional initial review and tracking would increase for the variable elements described above in "Application Tracking Database." Based on experience, Ecology assumes that during the application process additional analysis would be necessary to identify any additional technical information needed to make a determination. Additional work with applicants and third parties would be required to assemble the additional information, to ensure that the application is complete, and to enable an efficient and effective determination process. Ecology estimates that analyzing and reviewing applications for completeness, working with applicants, data entry, and tracking would require 1.0 FTE Environmental Specialist 2 (ES2) and 2.0 FTEs Environmental Specialist 3 (ES3) on an ongoing basis, starting in FY17.

2. Issuing preliminary and revised certifications: Ecology assumes that completing preliminary 401 Certification decisions within 30-days and revising preliminary 401 certification decisions would require increased permit writing staffing. Based on current workload and staffing, the approximately 200 total 401 certification actions per year are accomplished by 5.35 FTEs or approximately 54 hours on average per action. The increased workload associated with new processes – including issuing the preliminary certification within the condensed review time of 30 days and the revised certification – would result in an approximate increase of 30 hours per action by permitting staff to an average of 84 hours per action or a 56% increase. Ecology estimates that this work would require a corresponding increase of an additional 3.0 FTEs Environmental Specialist 4 (ES4) in activity A037. For hydroelectric dam relicensing 401 certifications, Ecology estimates a lower workload increase, due to the fact that dam relicensing is done on existing facilities. This would require an additional 0.5 FTEs Environmental Specialist 4 (ES4) in activity A049 on an ongoing basis, starting in FY17.

Notes on costs by object:

Salary estimates are current actual rates at step H, the agency average for new hires.

Benefits are the agency average of 35.5% of salaries.

Contracts includes \$275,000 in FY17 for a tracking database and \$25,000 each biennium thereafter for maintenance.

Goods and Services are the agency average of \$4,008 per direct program FTE.

Travel is the agency average of \$2,227 per direct program FTE.

Equipment is the agency average of \$1,041 per direct program FTE.

Agency Administrative Overhead is calculated at the federally approved agency indirect rate of 26.1% of direct program salaries and benefits, and is shown as object 9. Agency Administrative Overhead FTEs are included at 0.15 FTE per direct program FTE, and are identified as Fiscal Analyst 2 and IT Specialist 2.

### Part III: Expenditure Detail

#### III. A - Expenditures by Object Or Purpose

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years		9.7	4.8	7.5	7.5
A-Salaries and Wages		455,050	455,050	682,212	682,212
B-Employee Benefits		161,542	161,542	242,184	242,184
C-Professional Service Contracts		275,000	275,000	25,000	25,000
E-Goods and Other Services		33,667	33,667	52,104	52,104
G-Travel		18,707	18,707	28,952	28,952
J-Capital Outlays		8,744	8,744	13,534	13,534
9-Agency Administrative Overhead		160,931	160,931	241,268	241,268
<b>Total:</b>	\$0	\$1,113,641	\$1,113,641	\$1,285,254	\$1,285,254

#### 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 2016	FY 2017	2015-17	2017-19	2019-21
ENVIRONMENTAL SPEC 2	42,487		1.0	0.5	1.0	1.0
ENVIRONMENTAL SPEC 3	49,304		3.3	1.7	2.0	2.0
ENVIRONMENTAL SPEC 4	57,146		3.5	1.8	3.5	3.5
FISCAL ANALYST 2			0.8	0.4	0.7	0.7
IT SPECIALIST 2			0.4	0.2	0.3	0.3
IT SYSTEMS/APP SPEC 6	82,727		0.3	0.2		
WMS Band 1	83,436		0.3	0.2		
<b>Total FTE's</b>	315,100		9.7	4.8	7.5	7.5

### 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.*



# Individual State Agency Fiscal Note

<b>Bill Number:</b> 6172 SB	<b>Title:</b> Clean water act/prelim certs	<b>Agency:</b> 477-Department of Fish and Wildlife
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## Part I: Estimates

☒ No Fiscal Impact

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Check applicable boxes and follow corresponding instructions:

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- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact: Sarah Sauter	Phone: (360) 786-7400	Date: 01/12/2016
Agency Preparation: Catherine Suter	Phone: 360-902-2196	Date: 01/15/2016
Agency Approval: Catherine Suter	Phone: 360-902-2196	Date: 01/15/2016
OFM Review: Heather Matthews	Phone: (360) 902-0543	Date: 01/18/2016

## 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.*

Sections 1-2 direct the Department of Ecology (ECY) to make preliminary certifications for project applications under section 401 of the federal Clean Water Act. These certifications must be made within 30 days of receiving a complete application and must be based on information contained therein.

Under current practice, ECY occasionally consults with the Department of Fish and Wildlife (WDFW) for section 401 project certifications to ensure water quality and fish habitat. There are two aspects to this work: hydraulic project approvals (HPAs) and an extended process that involves information from multiple agencies and the public. Because this bill allows ECY to make a preliminary certification based solely on the application, WDFW will not be a part of this 30-day process.

WDFW will continue to do the work, though, because, based on its lead agency assumptions, ECY will require an HPA as part of the completed application. The other consultation will not be a part of the 30-day preliminary process but can still occur as part of the final certification.

Therefore, the work that WDFW currently does to assist ECY in section 401 project applications will occur both before the application is submitted (HPAs) and after the preliminary certification is issued, which is why this bill does not have fiscal impact on WDFW.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

## Part III: Expenditure Detail

## Part IV: Capital Budget Impact

## Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 6172 SB	<b>Title:</b> Clean water act/prelim certs	<b>Agency:</b> 490-Department of Natural Resources
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## Part I: Estimates

☒ No Fiscal Impact

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Check applicable boxes and follow corresponding instructions:

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- ☐ Requires new rule making, complete Part V.

Legislative Contact: Sarah Sauter	Phone: (360) 786-7400	Date: 01/12/2016
Agency Preparation: Daniel Howard	Phone: (360) 902-1021	Date: 01/19/2016
Agency Approval: Megan Duffy	Phone: (360) 902-1034	Date: 01/19/2016
OFM Review: Heather Matthews	Phone: (360) 902-0543	Date: 01/20/2016

## 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.*

The bill requires an expedited decision from the Department of Ecology. The bill does not change permitting requirements for the Department of Natural Resources; therefore there is no fiscal impact.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

## Part III: Expenditure Detail

## Part IV: Capital Budget Impact

## Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*