

Multiple Agency Fiscal Note Summary

Bill Number: 1918 HB	Title: Groundwater treatment
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Estimated Cash Receipts

Agency Name	2017-19		2019-21		2021-23	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of Attorney General	0	110,870	0	110,870	0	110,870
Total \$	0	110,870	0	110,870	0	110,870

Estimated Expenditures

Agency Name	2017-19			2019-21			2021-23		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of Attorney General	.4	0	110,870	.4	0	110,870	.4	0	110,870
Department of Ecology	13.8	0	5,445,252	13.8	0	4,485,252	13.8	0	4,485,252
Total	14.2	\$0	\$5,556,122	14.2	\$0	\$4,596,122	14.2	\$0	\$4,596,122

Local Gov. Courts *									
Loc School dist-SPI									
Local Gov. Other **	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Impact

Agency Name	2017-19		2019-21		2021-23	
	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Department of Ecology						
Acquisition	0	0	0	0	0	0
Construction	0	0	0	0	0	0
Other	0	0	0	3,000,000	3,000,000	3,000,000
Total \$	\$0	\$0	\$0	\$3,000,000	\$3,000,000	\$3,000,000

Prepared by: Linda Steinmann, OFM	Phone: 360-902-0573	Date Published: Revised 3/ 7/2017
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

Individual State Agency Fiscal Note

Bill Number: 1918 HB	Title: Groundwater treatment	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 2018	FY 2019	2017-19	2019-21	2021-23
Legal Services Revolving Account-State 405-1	55,435	55,435	110,870	110,870	110,870
Total \$	55,435	55,435	110,870	110,870	110,870

Estimated Expenditures from:

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	0.4	0.4	0.4	0.4	0.4
Account					
Legal Services Revolving Account-State 405-1	55,435	55,435	110,870	110,870	110,870
Total \$	55,435	55,435	110,870	110,870	110,870

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:

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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.

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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: Rebecca Lewis	Phone: 360-786-7339	Date: 02/06/2017
Agency Preparation: Toni Ursich	Phone: (509) 456-3123	Date: 02/13/2017
Agency Approval: Nick Klucarich	Phone: 360-586-3434	Date: 02/13/2017
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 02/13/2017

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 5 adds a new section to chapter 36.70A RCW, authorizing county legislative authorities to choose to implement a program or programs for the mitigation of impacts upon surface waters or new withdrawals from groundwater's exempt from Department of Ecology (DOE) permitting under RCW 9.44.050. In consultation with DOE, a county mitigation program must be scaled to encompass a single Water Resource Inventory Area (WRIA) or subbasin within a WRIA as necessary to avoid the impairment of senior water rights. A county that chooses to implement a mitigation program that crosses county lines must coordinate with other county legislative authorities in the establishment of a mitigation program. The program may be applicable to some or all areas having groundwaters in hydraulic continuity with surface waters and not served by a water distribution system available to the general public. Upon request from a county, DOE will provide the best available existing data and mapping of ground and surface water resources for each area requested. Subject to the availability of amounts appropriated for this purpose, DOE must provide assistance to counties choosing to adopt a mitigation program; the information that DOE must provide in fulfilling this duty is specified.

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.

Cash receipts are assumed to equal the Legal Service Revolving Account (LSRA) cost estimates. These will be billed through the revolving account to the client agency.

The client agency is DOE. The AGO will bill all clients for legal services rendered.

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 agency's fiscal note. Appropriation authority is necessary in the AGO budget.

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.

In order to provide legal services for DOE, the AGO estimates a workload impact of \$55,435 in FY 2018 and in each FY thereafter for 0.25 Assistant Attorney General (AAG) and 0.12 Legal Assistant (LA).

Assumptions for the AGO Ecology (ECY) Division Legal Services for DOE:

1. Legal services associated with the enactment of this bill will begin on July 1, 2017.
2. The AGO will bill DOE for legal services based on the enactment of this bill. DOE concurs with the assessment of demand for AGO legal services.
3. Section 5 of this bill requires DOE to support up to 14 counties in establishing programs to mitigate impacts on surface water bodies from new permit-exempt wells.

4. Based on our experience in supporting DOE in establishing such programs in Kittitas and Skagit Counties, extending such an effort to numerous other counties is going to require legal advice and transactional assistance for DOE's Water Resources Program.

5. Total workload impact for 0.25 AAG and 0.12 LA in FY 2018 is \$55,435 in FY 2018 and in each FY thereafter.

Note: Agency administration support FTEs are included in the tables below, using a Management Analyst 5 as a representative classification.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	0.4	0.4	0.4	0.4	0.4
A-Salaries and Wages	35,187	35,187	70,374	70,374	70,374
B-Employee Benefits	11,409	11,409	22,818	22,818	22,818
C-Professional Service Contracts					
E-Goods and Other Services	8,034	8,034	16,068	16,068	16,068
G-Travel	435	435	870	870	870
J-Capital Outlays	370	370	740	740	740
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$55,435	\$55,435	\$110,870	\$110,870	\$110,870

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 2018	FY 2019	2017-19	2019-21	2021-23
Assistant Attorney General	100,128	0.3	0.3	0.3	0.3	0.3
Legal Assistant III	48,060	0.1	0.1	0.1	0.1	0.1
Management Analyst 5	73,140	0.1	0.1	0.1	0.1	0.1
Total FTE's	221,328	0.4	0.4	0.4	0.4	0.4

III. C - Expenditures By Program (optional)

Program	FY 2018	FY 2019	2017-19	2019-21	2021-23
Ecology Division (ECY)	55,435	55,435	110,870	110,870	110,870
Total \$	55,435	55,435	110,870	110,870	110,870

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.

None

Individual State Agency Fiscal Note

Bill Number: 1918 HB	Title: Groundwater treatment	Agency: 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 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	13.8	13.8	13.8	13.8	13.8
Account					
Water Withdrawal Mitigation Assistance Account-State NEW-1	2,722,626	2,722,626	5,445,252	4,485,252	4,485,252
Total \$	2,722,626	2,722,626	5,445,252	4,485,252	4,485,252

Estimated Capital Budget Impact:

	2017-19		2019-21		2021-23	
	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Acquisition	\$0.00	0	0	0	0	0
Construction	\$0.00	0	0	0	0	0
Other	\$0.00	0	0	3,000,000	3,000,000	3,000,000
Total \$	\$0.00	\$0	\$0	\$3,000,000	\$3,000,000	\$3,000,000

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:

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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.

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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: Rebecca Lewis	Phone: 360-786-7339	Date: 02/06/2017
Agency Preparation: Jim Skalski	Phone: 360-407-6617	Date: 03/07/2017
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 03/07/2017
OFM Review: Linda Steinmann	Phone: 360-902-0573	Date: 03/07/2017

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, RCW 19.27 (State Building Code) and RCW 58.17.110 (Boundaries and Plats) establish county permitting criteria that are used to make decisions on building permits for buildings that would rely on a permit exempt well for a water source.

This bill would make statutory changes to assist counties with implementing their obligation to protect water resources under the State Growth Management Act by addressing the recent State Supreme Court Decision known as the “Hirst” decision.

Specific sections of the bill that would impact Ecology are:

Section 1 would authorize counties to approve building permits if Ecology determined that the water withdrawn (from a permit exempt well) would not impair instream flows or senior water rights, would not be located in a closed basin, or the user would mitigate for their water used under requirements set forth in section 5 of this bill. This section would require Ecology to make information available to landowners who are unable to rely on an approved water purveyor or on a new, unmitigated ground or surface water source. Ecology would be required to provide mitigation options and/or alternative water source information in cooperation with the affected local government. Ecology would have fiscal impact from this section that would be included with work outlined in Section 5 impacts below.

Section 4 would authorize counties to approve building permits for subdivisions if Ecology determined that the water withdrawn from a permit exempt well would not impair instream flows or senior water rights, would not be located in a closed basin, or determined that the user mitigates for their water used under requirements set forth in section 5 of this bill. Section 4 does not have any fiscal impact to Ecology as this work has already been completed. There are no areas of the state that have a water supply that exceeds minimum instream flows and other senior rights. Mitigation of water use is discussed under section 5, below.

Section 5 would authorize counties to implement a program for the mitigation of impacts on surface water withdrawals from new permit exempt well groundwater withdrawals authorized under RCW 90.44.050. This section of the bill outlines criteria for the establishment of the mitigation program, some elements of which would impact Ecology. Section 5(2) would provide that upon request of a county, Ecology would have to provide the best available existing data and mapping of ground and surface water resources for each area requested. Section 5(3)(a) would require Ecology to confirm that water would be reasonably available if the county identifies a source of water to be used for mitigation. Section 5(8) would require Ecology to provide assistance to counties implementing a mitigation program including providing information on water rights, mitigation design, alternative water supplies and water banking options. This section would also require Ecology to assist counties in creating water banks, enter into agreements to administer all portions of the mitigation programs and provide financial assistance for creating and implementing the mitigation program.

Section 5 would establish a new mitigation program that would require Ecology to provide information, technical assistance, operational support and financial assistance to counties choosing to implement such a program. Section 5 would have a fiscal impact on Ecology.

Section 6 would require Ecology to evaluate and publish maps of legal availability of water in each Water

Resource Inventory Area (WRIA) by December 1, 2020. Ecology would prioritize mapping of water supplies for which the greatest number of developments relying on permit exempt wells is anticipated to occur based on the twenty year planning horizon established under RCW 36.70A. Section 6 would not have a fiscal impact on Ecology as this work has already been completed.

Section 7 would direct Ecology to expedite the processing of all applications to transfer a water right to the trust water rights program when such a right would be used for mitigation under section 5 of this bill. Ecology anticipates the workload in this section would be performed by existing staff using already established water rights processing staff within the program. Section 7 would not have a fiscal impact on Ecology as this would not impact overall workload, but just reorder existing workload.

Section 8 would amend Chapter 90.44 RCW to establish the Water Withdrawal Mitigation Assistance Account. This new dedicated account would be managed by Ecology. Fund management activities would be incorporated within existing fund management workload. There would be no fiscal impact to Ecology.

Section 9 would authorize Ecology to establish rules to define quantity and acreage limits for new noncommercial garden and domestic uses of water that are lower than provided for in subsection 9(1), which is current law RCW 90.44.05 "Permit to withdraw." Under the new language in section 9(2)(a), the rule(s) would have to be specific to the watershed or aquifer that Ecology believes is fully appropriated or close to being fully appropriated. The rules would have to include mechanisms to ensure that the rules would not be violated. Subsection 9(2)(b) would establish the basis for mitigation to be defined as (i) the amount established in subsection 9(1), (ii) the amount established by rule under subsection 9(2)(a), or, (iii) the consumptive use associated with a new permit exempt well if the well is metered and consumptive use data is provided to the county consistent with the mitigation certificate issued under section 5 of the bill. The fiscal impact from section 9 is indeterminate with respect to rule making. Ecology would need to analyze basin specific information to determine whether rule-making would be warranted or not. The analysis for this potential is included in the assessment and scoping costs in the expenditures section. However, rule-making costs should they be needed are not included in this fiscal note.

Section 10 of this bill would establish an emergency clause and have the bill take effect immediately. Ecology assumes implementation would begin July 1, 2017.

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 – Please note that there is no revenue source connected to the new account identified in this bill.

II. C - Expenditures

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

This bill would require Ecology under section 5 to provide additional information, technical assistance, contracting services, project management, and scientific data to counties implementing a groundwater mitigation program.

Ecology assumptions for the expenditures required by this bill are:

1. The bill would apply to 12 counties including Whatcom, Skagit, Snohomish, King, Kitsap, Mason, Pierce,

Thurston, Lewis, Stevens, Pend Oreille and Spokane. These counties are assumed to be affected by the Hirst decision because they have instream flow rules that do not specifically include water allocations for permit exempt well water withdrawals.

2. On this basis, this bill is assumed to apply to 14 Watershed Inventory areas including Nooksack(1), Snohomish(7), Cedar-Sammamish(8), Duwamish-Green(9), Puyallup-White(10), Nisqually(11), Chambers-Clover(12), Deschutes(13), Kennedy-Goldsborough(14), Kitsap(15), Lower Chehalis(22), Upper Chehalis(23), Little Spokane(55), and Colville(59).
3. Implementation would begin July 1, 2017, (FY2018) in 12 counties.
4. Each county would have dedicated Ecology staffing to administer mitigation programs for each county.
5. Ecology would administer all mitigation programs established by counties per Section 4(8)(g) of the bill. This would require 12 different mitigation programs to be implemented under this bill.
6. Expenditure estimates for this bill are modeled after actual work within the Skagit Basin attempting to do the same type of work as required by this bill. Please note that Ecology received one-time Capital Budget appropriations to perform similar work in the Skagit and Dungeness basins that are not available to implement work described in this bill.
7. Section 5 of this bill would be funded from the account created in section 8 of the bill that would establish the Water Withdrawal Mitigation Assistance Account.

The staffing included below is based on an average of all expected Ecology work to implement the mitigation program in each county, multiplied by 12 counties where appropriate for the statewide total.

Specific expenditures would include:

DATA MAPPING TECHNICAL ASSISTANCE COUNTY MITIGATION PROGRAMS

Section 1 and 5 would require Ecology to provide the best available existing data and mapping of ground and surface water resources to each county establishing a mitigation program under this section. Ecology would also anticipate providing technical assistance to each county regarding specific water rights that might be proposed for mitigation as well as the best available information regarding ground and surface waters, surface water risks related well locations, design of potential mitigation projects (offstream storage, flow augmentation, etc.), alternative water supply programs (cisterns, etc.), and existing and proposed use of water banks that could provide mitigation.

Ecology estimates that:

1. Staff would be required to provide and coordinate information, technical assistance and mapping services. Ecology estimates that an average of 0.5 FTE Environmental Planner 4, and 0.25 FTE Hydrogeologist 3 per county would be needed. Implementation statewide would require 6.0 FTE Environmental Planner 4's and 3.0 FTE Hydrogeologist 3's.
2. Staff would be required to provide contract management and project oversight for all county agreements needed to implement this section statewide. This work is estimated to require 1.0 FTE Environmental Planner 4.
3. Overseeing this new mitigation program, new staffing and administering implementation statewide would require 1.0 FTE WMS2.
4. Providing support services and implementation assistance for the new mitigation program statewide would require 1.0 FTE Administrative Assistant 3.

The total annual FTEs required to implement section 5 of this bill would be 7.0 FTE EP4, 3.0 FTE HG3, 1.0 FTE

SCOPING & ANALYSIS OF SOLUTIONS

Ecology anticipates that each county would require an initial analysis to identify the scope and scale of potential solutions available to implement a mitigation program responsive to the unique water supply situation in each county. Ecology estimates that additional professional consulting services would be required in each county to assist with analysis, technical & engineering support, design services, and other water supply project recommendations. Based on actual Ecology experience in the Skagit Basin over the past few years, Ecology estimates that approximately \$100,000 per county per year for the first two years would be required. These costs are one-time for the first biennium (FY18 & FY19) of implementation that would total \$1,200,000 per year statewide.

WATER BANKING OPERATIONS AND IMPLEMENTATION

Ecology estimates that water banking operations and implementation would include subcontracted services to a third-party entity and that additional operating funding would be required to implement, operate and acquire water for water banks within each county. Ecology currently sub-contracts these services to the Washington Water Trust in the Skagit Basin. Cost estimates to implement a water banking program include:

1. Approximately \$60,000 per year would be required to administer a water banking program in each county. The total cost to establish, administer and operate water banks would be approximately \$720,000 per year statewide. The water bank operations and acquisition work would be ongoing and would begin in the second biennium (FY20 ongoing) of implementation and be ongoing. This estimate is based on Ecology experience with a third-party consultant doing similar work in Skagit County.
2. Funding to acquire water rights for deposit into each county water bank is included in the capital budget section of this fiscal note.

The total statewide non-staff cost required to implement this water banking in section 5 would be \$1,200,000 per year (FY18 & FY19 one-time) for water supply consulting services and \$720,000 per year (FY20 and FY21 and ongoing) for water banking implementation and operations. The costs for water acquisition are included in the Capital section of this fiscal note. (Capital funding is assumed to begin in FY 21.)

OTHER RELATED EXPENSES

Ecology anticipates additional AAG time would be required to implement the provisions of each mitigation program to ensure conformity with applicable water law. In consultation with the ATG, Ecology estimates that 0.25 AAG FTE (\$55,435) per year ongoing would be required to implement section 5 of this bill statewide.

INDETERMINATE COSTS:

Please note that the local government fiscal note is indeterminate with respect to expenditures. Ecology assumes that the department would cover, at least one-half of the local government costs to implement the program. Those costs are not included in this fiscal note. Based on the scenario included in the local government fiscal note, the cost estimate for all 12 counties to implement the bill would cost \$2,005,000 per year. Under the bill, Ecology would reimburse local government approximately \$1,002,500 for the county portion of implementation. It is expected this cost would be ongoing.

Notes on costs by object:

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

Benefits are the agency average of 36% of salaries.

Contracts are estimated using current agency experience and would total \$1,200,000 per year in FY18 & FY19 and \$720,000 per year in FY20 and ongoing.

Goods and Services are the agency average of \$3,784 per direct program FTE. Attorney General Costs of \$55,435 for 0.25 AAG FTE for FY18 and beyond are based on \$221,740 per AAG per year, or \$18,478 per month, including overhead.

Travel is the agency average of \$2,368 per direct program FTE.

Equipment is the agency average of \$868 per direct program FTE.

Agency Administrative Overhead is calculated at the federally approved agency indirect rate of 28.6% 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 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	13.8	13.8	13.8	13.8	13.8
A-Salaries and Wages	790,728	790,728	1,581,456	1,581,456	1,581,456
B-Employee Benefits	284,662	284,662	569,324	569,324	569,324
C-Professional Service Contracts	1,200,000	1,200,000	2,400,000	1,440,000	1,440,000
E-Goods and Other Services	100,843	100,843	201,686	201,686	201,686
G-Travel	28,416	28,416	56,832	56,832	56,832
J-Capital Outlays	10,416	10,416	20,832	20,832	20,832
9-Agency Administrative Overhead	307,561	307,561	615,122	615,122	615,122
Total:	\$2,722,626	\$2,722,626	\$5,445,252	\$4,485,252	\$4,485,252

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 2018	FY 2019	2017-19	2019-21	2021-23
ADMINISTRATIVE ASSISTANT 3	39,444	1.0	1.0	1.0	1.0	1.0
ENVIRONMENTAL PLANNER 4	64,620	7.0	7.0	7.0	7.0	7.0
FISCAL ANALYST 2		1.2	1.2	1.2	1.2	1.2
HYDROGEOLOGIST 3	69,648	3.0	3.0	3.0	3.0	3.0
IT SPECIALIST 2		0.6	0.6	0.6	0.6	0.6
WMS BAND 2	90,000	1.0	1.0	1.0	1.0	1.0
Total FTE's	263,712	13.8	13.8	13.8	13.8	13.8

Part IV: Capital Budget Impact

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

Construction Estimate	FY 2018	FY 2019	2017-19	2019-21	2021-23
Acquisition					
Construction					
Other				3,000,000	6,000,000
Total \$				3,000,000	6,000,000

Ecology assumptions for the expenditures required by this bill are:

1. This bill is assumed to apply to 12 counties including Whatcom, Skagit, Snohomish, King, Kitsap, Mason, Pierce, Thurston, Lewis, Stevens, Pend Oreille and Spokane. These counties are assumed to be those affected by the Hirst

decision because they have instream flow rules that do not specifically include water allocations for permit exempt well water withdrawals.

2. On the same basis, this bill would apply to 14 Watershed Inventory areas including Nooksack(1), Snohomish(7), Cedar-Sammamish(8), Duwamish-Green(9), Puyallup-White(10), Nisqually(11), Chambers-Clover(12), Deschutes(13), Kennedy-Goldsborough(14), Kitsap(15), Lower Chehalis(22), Upper Chehalis(23), Little Spokane(55), and Colville(59).
3. Implementation would begin July 1, 2017, (FY2018) in all 12 counties.
4. Ecology would administer all mitigation programs established by counties per Section 4(8)(g) of the bill. This would require 12 different mitigation programs be implemented under this bill.
5. Expenditure estimates for this bill are modeled after actual work within the Skagit Basin attempting to do a similar type of work as required by this bill. Please note that Ecology received one-time Capital Budget appropriations to perform similar work in the Skagit and Dungeness basins that are not available to implement work described in this bill.
6. Water banks would be established in each county to provide mitigation water to program recipients.
7. Ecology would acquire water rights in each county that would be deposited into each water bank for the purposes of providing mitigation water.
8. The cost to acquire legally and physically available water in each county is indeterminate.
9. Water acquisition appropriations would be included in the Ecology budget each fiscal year to facilitate timely acquisition of water rights, good-faith negotiation with stakeholders and appropriate contract execution with sellers.

Water acquisition costs to acquire water rights are highly variable and depend on location (different counties have different prices), quantity of water, seniority of the right, willing sellers, hydrogeological position of the water within the watershed, legal status of the water right, purpose of the water right, market conditions, etc. Therefore, it is very difficult to quantify the prospective costs to acquiring water across 12 very different counties. Ecology estimates that the costs to acquire water would greatly vary depending on the aforementioned factors with costs exceeding \$100,000 to well over \$1,000,000 for each specific acquisition undertaken.

As a starting point, Ecology projects that approximately \$250,000 per year would be required to implement a water acquisition program to place mitigation water within a water banking program in each county. The \$250,000 estimate is based on limited Ecology experience within Skagit County doing similar work unique to that basin. The costs to acquire water are highly variable. The total cost for acquiring water for each county water bank would be approximately \$3,000,000 per year statewide. Funding for the water acquisition activity in each county bank is assumed to begin in the second biennium (in FY21) of implementation, and be ongoing.

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.

Indeterminate – Section 9 of this bill would authorize Ecology to establish new rules should they be necessary to solve specific water supply issues within specific basins or aquifers. Ecology anticipates that each county would require an initial analysis to identify the scope and scale of potential solutions available to implement a mitigation program responsive to the unique water supply situation in each county. After completing this analysis, Ecology would determine if new rules would be necessary.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 1918 HB	Title: Groundwater treatment
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- ☒ Cities: Small costs to update development codes
- ☒ Counties: Small costs to update development codes; indeterminate and large expenditures and revenue to implement groundwater mitigation programs
- ☐ Special Districts:
- ☒ Specific jurisdictions only: Groundwater mitigation program option primarily applies to Whatcom, Skagit, Snohomish, King, Kitsap, Mason, Pierce, Thurston, Lewis, Stevens, Pend Oreille, and Spokane; however, other counties are affected by other provisions as described in expenditure narrative
- ☐ Variance occurs due to:

Part II: Estimates

- ☐ No fiscal impacts.
- ☒ Expenditures represent one-time costs: Update development regulations; pass an ordinance to develop a groundwater mitigation program
- ☒ Legislation provides local option: 12 counties may choose to develop their own groundwater resource management programs
- ☒ Key variables cannot be estimated with certainty at this time: How much the groundwater mitigation programs cost to implement and administer; how many counties would choose the option; how much revenue may be available from state financial assistance and local mitigation-related permit fees

Estimated revenue impacts to:

Indeterminate Impact

Estimated expenditure impacts to:

Indeterminate Impact

Part III: Preparation and Approval

Fiscal Note Analyst: Heather May	Phone: 360-725-5043	Date: 02/28/2017
Leg. Committee Contact: Rebecca Lewis	Phone: 360-786-7339	Date: 02/06/2017
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 02/28/2017
OFM Review: Linda Steinmann	Phone: 360-902-0573	Date: 02/28/2017

Part IV: Analysis

A. SUMMARY OF BILL

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

The bill would allow counties the option to implement programs for mitigating impacts to new permit-exempt groundwater withdrawals. A county legislative authority would have the option of implementing a watershed-based groundwater mitigation program. Upon request, the Department of Ecology (Ecology) would provide technical expertise on water mitigation, data, mapping of ground and surface water resources and financial assistance to the county.

Section 1(1) would define that an application for a water right from Ecology is not sufficient proof of adequate water supply but the following are: a county mitigation certificate; an Ecology issued water right permit; a letter from an approved water purveyor stating the ability to provide water; rainwater collection and treatment; or trucking or other nontraditional water conveyance. IMPACTS: 12 GMA-planning counties with pre-2001 instream flow rules.

Section 1(5)a would require the building permitting authority to determine if water is available for an exempt well application for a building permit in non-GMA counties subject to an agreement under 1(2). IMPACTS: 10 non-GMA-planning counties.

Section 1(5)b would require the building permitting authority to determine if water is available for an exempt well application for a building permit where Ecology determines that water is in hydraulic continuity with surface waters that are in excess of needs for senior water rights and minimum instream flows. IMPACTS: 22 counties with instream flow rules (includes GMA/non-GMA; pre-2001 instream flow rules/post-2000 instream flow rules).

Section 1(5)c would require the building permitting authority to determine if water is available for an exempt well application for a building permit where a mitigation certificate under Section 5 is issued. IMPACTS: 12 GMA-planning counties with pre-2001 instream flow rules.

Section 2 would require cities and counties to adopt ordinances explaining when and how alternative water sources may be used to satisfy adequate water supplies for areas not served by water providers or where water is unavailable year-round. Alternative water sources must include trucking and other nontraditional water conveyance. IMPACTS: 12 counties planning under GMA with pre-2001 instream flow rules.

Section 3 would allow counties or cities to issue a building permit without water rights for a project that was substantively active on or before October 26, 2016, which means they have submitted a building permit application and they have invested at least \$500. A permit issued under these stipulations does not authorize construction after July 1, 2019. IMPACTS: 14 counties with pre-2001 instream flow rules (including two counties not planning under GMA).

Section 4(4)a would require the building permitting authority to determine if water is available for an exempt well application for a subdivision building permit if the project is located in an area exempt from GMA planning under 19.27.097(2). IMPACTS: 10 counties not planning under GMA.

Section 4(4)b would require the building permitting authority to determine if water is available for an exempt well application for a subdivision building permit if Ecology has determined that there is sufficient flows to meet all senior water rights. IMPACTS: 22 counties with instream flow rules (includes GMA/non-GMA; pre-2001 instream flow rules/post-2000 instream flow rules).

Section 4(4)c would require the building permitting authority to determine if water is available for an exempt well application for a subdivision building permit if a mitigation certificate has been obtained under section 5. IMPACTS: 12 counties planning under GMA with pre-2001 instream flow rules.

Section 5 would authorize counties to implement a groundwater mitigation program in consultation with Ecology scaled to encompass a single WRIA or subbasin to apply to areas without access to a water distribution system. Ecology would enter into separate agreements with each eligible county choosing to implement a water mitigation program. Section 5(3) would allow all applicants for building permits and subdivision approvals within the water mitigation planning area to participate. Additional participants within the mitigation planning area seeking to mitigate effects of new permit-exempt groundwater withdrawal would be considered, if water resources are available and: Ecology confirms the water is reasonably likely to be available; a water right is identified and under negotiation of purchase by the county; a mitigation project has been designed and confirmed by Ecology to mitigate impacts. Section 5(4) would allow a 5 year period after issuing a mitigation certificate within which all mitigation measures must be in place. Section 5(5) would allow a county to accept monetary payment as an acceptable mitigation measure if the money is used to acquire water or carry out mitigation measures. They could also accept a mitigation obtained through the state water rights program, a county water bank, a third party or other water bank recognized by Ecology. Section 5(6) would require a county to issue a mitigation certificate to a participant meeting water mitigation program

standards. Section 5(7) would require all funds provided by the state and by applicants to the program be used by the county for the purposes of administering and implementing water mitigation. Section 5(8) outlines Ecology responsibilities to include providing science, technical assistance, grant funding, policy guidance, water bank development & operations, risk analysis, and water right analysis, and project design assistance to each of the counties. IMPACTS: 12 counties planning under GMA, with pre-2001 instream flow rules.

Section 6 would require Ecology to produce maps of the legal water availability in each WRIA and to prioritize the mapping of watersheds with the most development relying on permit-exempt wells over the twenty year planning horizon. IMPACTS: 12 GMA -planning counties with pre-2001 instream flow rules.

Section 7 would require Ecology to prioritize the transfer of water rights to a counties' groundwater mitigation program. IMPACTS: None.

Section 8 would create the Water Mitigation Assistance Account which would be appropriated to implement county groundwater mitigation programs. IMPACTS: None.

Section 9 would allow Ecology to establish a rule with quantity and acreage limits for a noncommercial garden and domestic water uses in a watershed at or near full appropriation. IMPACTS: None.

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.

Building permit authorities in selected counties and cities would incur small costs to update development regulations. The following 12 counties would incur large and indeterminate costs if they choose to implement a groundwater mitigation program: Whatcom, Skagit, Snohomish, King, Kitsap, Mason, Pierce, Thurston, Lewis, Stevens, Pend Oreille, and Spokane.

SECTION 1 AND 4 COSTS:

Building permit authorities would incur one-time costs to update development regulations to reflect the new methods for providing evidence of adequate water supply. They would incur one-time costs to adopt a simple ordinance of approximately \$350, according to the Local Government Fiscal Note 2017 Program unit cost data. The costs apply to 22 counties, and the 187 cities within, that have instream flow rules (includes GMA/non-GMA; pre-2001 instream flow rules/post-2000 instream flow rules).

-- \$350 x 209 counties and cities = \$73,150

SECTION 2 COSTS:

A county who chooses to implement a groundwater mitigation program under Section 5 of the bill would be required to pass an ordinance, a one-time cost. The cost to pass a complex ordinance with a public hearing is approximately \$4,890, according to the Local Government Fiscal Note Program 2017 unit cost data.

-- Total if all 12 counties choose to implement a groundwater mitigation program \$4,890 x 12 counties = \$58,680

SECTION 5 COSTS:

It is unknown how many counties would receive Ecology's groundwater mitigation program. Ecology would provide technical and scientific support while counties would incorporate the information into planning documents and issue groundwater mitigation certificates. Based on input from counties and Ecology's assumptions, counties would require the following additional staff to provide the local planning services associated with the program:

-- 1 FTE planner

-- 1 FTE permit tech

For counties with small populations, which would include Skagit, Lewis, Stevens, and Pend Oreille, costs would be approximately:

-- 1 FTE planner @ \$89,650 x 4 counties = \$358,600

-- 1 FTE permit tech @ \$75,700 x 4 counties = \$302,800

Total for all small counties = \$661,400

For counties with medium populations, which would include Whatcom, Mason, Thurston, and Spokane, costs would be approximately:

-- 1 FTE planner @ \$91,800 x 4 counties = \$367,200

-- 1 FTE permit tech @ \$78,000 x 4 counties = \$312,000

Total for all medium counties: \$679,200

For counties with large populations, which would include Snohomish, King, Kitsap, and Pierce.

-- 1 FTE planner @ \$92,300 x 4 counties = \$369,200

-- 1 FTE permit tech @ \$73,800 x 4 counties = \$295,200

Total for all large counties: \$664,400

Total per year if all eligible counties choose to implement a groundwater management program: \$2,005,000

Salaries derived from the Local Government Fiscal Note Program 2017 unit cost data.

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.

Counties who choose to adopt a groundwater mitigation program would generate indeterminate revenue.

Section 5(8) would require Ecology to provide financial assistance to counties choosing to adopt a groundwater mitigation program. The actual reimbursement is based on available funds therefore, it is indeterminate. Ecology assumes half the costs of the plan would be reimbursed, or a total of \$1,002,500 per year if all counties choose to implement a groundwater mitigation program.

Section 5(5) would allow revenue to be collected by counties choosing to enact a groundwater mitigation program that accept monetary payment as an acceptable mitigation measure. No fixed amount is associated with this payment. Therefore, the revenue is indeterminate.

Counties could choose to increase building permit fees to cover a portion or all of the costs of implementing a groundwater management plan.

SOURCES:

Washington State Association of Counties

Skagit County Planning Department

Department of Ecology

Department of Commerce

Mason County

The News Tribune salary databases <http://www.thenewstribune.com/news/databases/>

Local Government Fiscal Notes Program 2017 unit cost data

Downes et al (2016)

Municipal Research and Services Center

Thurston County

Whatcom County