

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5108 SB	<b>Title:</b> Criminal trespass
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## Estimated Cash Receipts

Agency Name	2003-05		2005-07		2007-09	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of Attorney General	0	535,200	0	535,200	0	535,200
Department of Natural Resources	0	(16,000)	0	(26,000)	0	(36,000)
<b>Total \$</b>	0	519,200	0	509,200	0	499,200

Local Gov. Courts *						
Local Gov. Other **	Fiscal note not available					
Local Gov. Total						

## Estimated Expenditures

Agency Name	2003-05			2005-07			2007-09		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of Administrator for the Courts	Indeterminate								
Office of Attorney General	2.0	0	535,200	2.0	0	535,200	2.0	0	535,200
Utilities and Transportation Commission	.0	0	10,000	.0	0	10,000	.0	0	10,000
Military Department	.0	0	0	.0	0	0	.0	0	0
Department of Health	.0	0	0	.0	0	0	.0	0	0
Sentencing Guidelines Commission	.0	0	0	.0	0	0	.0	0	0
Department of Ecology	.0	36,909	73,818	.0	36,822	73,644	.0	36,822	73,644
Department of Fish and Wildlife	.0	0	0	.0	0	0	.0	0	0
Department of Natural Resources	2.1	240,000	410,000	2.1	202,000	352,000	2.1	202,000	352,000
Department of Agriculture	1.0	780,576	780,576	1.0	780,576	780,576	1.0	780,576	780,576
<b>Total</b>	5.1	\$1,057,485	\$1,809,594	5.1	\$1,019,398	\$1,751,420	5.1	\$1,019,398	\$1,751,420

Local Gov. Courts *	Indeterminate								
Local Gov. Other **	Fiscal note not available								
Local Gov. Total									

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<b>Prepared by:</b> Garry Austin, OFM	<b>Phone:</b> 360-902-0564	<b>Date Published:</b> Preliminary 2/10/2003
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\* See Office of the Administrator for the Courts judicial fiscal note

\*\* See local government fiscal note

# Judicial Impact Fiscal Note

<b>Bill Number:</b> 5108 SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 055-Office of Administrator for Courts
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

FUND	FY 2004	FY 2005	2003-05	2005-07	2007-09
Counties					
Cities					
<b>Total \$</b>					

### Estimated Expenditures from:

<b>Indeterminate Impact</b>
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*The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.*

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.

Legislative Contact:	Phone:	Date: 01/22/2003
Agency Preparation: Julia Appel	Phone: (360) 705-5229	Date: 01/23/2003
Agency Approval: Janet McLane	Phone: (360) 705-5305	Date: 01/24/2003
OFM Review: Garry Austin	Phone: 360-902-0564	Date: 01/24/2003

**Part II: Narrative Explanation**

**II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts**

Sec.2 (3) of this bill amends the definition "Enters or remains unlawfully". The new language states: "A public official or employee "enters or remains unlawfully" under the same circumstances as any other person, except that it is not unlawful for such an official or employee to enter or remain in or upon premises: (a) When necessary to do so in response to a fire or a medical emergency; (b) When acting under authority of a warrant or other court order; or (c) When the official or employee is a law enforcement officer entering or remaining in or upon premises in a manner and under circumstances that are lawful as of the effective date of this act." Language is also added that states: "If a property owner has requested and obtained a service, permit, certificate, or license that requires the provider of the service...to have access to the owner's property...the provider is licensed to enter or remain upon that portion of the property to which ...license pertains for that purpose".

Sec.3 through Sec.51 amend statutes that cover access to property to perform a variety of inspections by adding wording that subjects that access to RCW 9A.52.070 (Criminal Trespass 1, a gross misdemeanor) and 9A.52.080 (Criminal Trespass 2, a misdemeanor).

**II. B - Cash Receipts Impact**

**II. C - Expenditures**

It is possible under this bill that additional gross misdemeanor and misdemeanor charges will be filed for the crimes of criminal trespass first and second degree. This will have an impact on the Washington courts, but that impact is unknown as it is not possible to estimate how many charges might be filed.

**Part III: Expenditure Detail**

**Part IV: Capital Budget Impact**

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5108 SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 100-Office of Attorney General
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

FUND	FY 2004	FY 2005	2003-05	2005-07	2007-09
Legal Services Revolving Account-State 405-1	267,600	267,600	535,200	535,200	535,200
<b>Total \$</b>	267,600	267,600	535,200	535,200	535,200

### Estimated Expenditures from:

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	2.0	2.0	2.0	2.0	2.0
<b>Fund</b>					
Legal Services Revolving Account-State 405-1	267,600	267,600	535,200	535,200	535,200
<b>Total \$</b>	267,600	267,600	535,200	535,200	535,200

*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:	Phone:	Date: 01/22/2003
Agency Preparation: Linda Moran	Phone: 360 753-2619	Date: 01/24/2003
Agency Approval: Steve Nielson	Phone: 360-753-2516	Date: 01/29/2003
OFM Review: Robin Campbell	Phone: 360-902-0575	Date: 01/31/2003

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 amends the criminal trespass law, RCW 9A.52.010, adding language that addresses government employees and under what grounds they will not be trespassing when on another's premises. It also repeals current laws that provide for immunity from liability for state and local government regulatory enforcement agency staff whose work takes them into or onto people's private property. What is not clear from the bill is whether the changes affect only instances where a government employee may now be criminally prosecuted for trespass or if it also reaches tort liability. We assume that this also affects tort liability as the changes appear to repeal immunity for tort damages and the removal of such immunity now may subject the state to potential liability for the wrongful acts of employees.

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.

It is assumed that the appropriate client agencies will be billed and they will pay. See expenditure section for assumptions for less than 100 claims.

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 bill mostly affects local government but affects several state agencies whose staff go out to premises for inspections, appraisals etc. The agencies affected are Department of Agriculture, DNR, DOT, WSP for public nuisance on property inspections, CTED (the office of long-term care ombudsman program), DOH, and Ecology. Many state employees must enter the premises to complete their work, some of which is investigative and regulatory by nature, some of which is not. Currently there are not many tort claims filed against state government for unlawful or wrongful presence on a person's property. We estimate less than 10 claims in a biennium are filed related to this kind issue. However, it is possible that if immunity from tort liability is lifted more claims may be filed, some of which will lead to tort litigation. If the number of claims were to grow to 100 claims per year we would need an additional tort investigator to handle them and likewise, additional attorney FTE to defend such cases would be necessary. It is too speculative to estimate the litigation needs at this time.

Notes: Overhead is included in Goods/Services  
Costs will be billed to OFM Risk Management (Torts)

Costs for:

75 cases would be 200,700  
50 cases would be 133,800  
25 cases would be 66,900

## Part III: Expenditure Detail

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

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	2.0	2.0	2.0	2.0	2.0
A-Salaries and Wages	127,536	127,536	255,072	255,072	255,072
B-Employee Benefits	28,058	28,058	56,116	56,116	56,116
C-Personal Service Contracts					
E-Goods and Services	72,203	72,203	144,406	144,406	144,406
G-Travel	39,803	39,803	79,606	79,606	79,606
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
<b>Total:</b>	\$267,600	\$267,600	\$535,200	\$535,200	\$535,200

**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 2004	FY 2005	2003-05	2005-07	2007-09
AGO Inv/Anal	53,136	1.0	1.0	1.0	1.0	1.0
Attorney	74,400	1.0	1.0	1.0	1.0	1.0
<b>Total FTE's</b>		2.0	2.0	2.0	2.0	2.0

## 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> 5108 SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 215-Utilities and Transportation Comm
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

<b>FUND</b>					
<b>Total \$</b>					

### Estimated Expenditures from:

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	0.0	0.0	0.0	0.0	0.0
<b>Fund</b>					
Public Service Revolving Account-State 111-1	5,000	5,000	10,000	10,000	10,000
<b>Total \$</b>	5,000	5,000	10,000	10,000	10,000

*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 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:	Phone:	Date: 01/22/2003
Agency Preparation: Kim Rogers	Phone: 360-664-1153	Date: 01/27/2003
Agency Approval: Carole Washburn	Phone: 360-664-1174	Date: 01/28/2003
OFM Review: Deborah Feinstein	Phone: 360-902-0614	Date: 02/10/2003

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 2 of the act says that public officials or employees that enter or remain unlawfully on private property are subject to criminal trespass unless it's necessary for them to:

- a) respond to a fire or medical emergency
- b) be there acting under a court order or warrant or
- c) be there in the capacity as a law enforcement officer.

One issue raised by the bill is whether regulatory staff (pipeline and rail) would fall within the definition of the term "law enforcement officer" so as to be permitted "to enter or remain in or upon premises" lawfully under Section 2 (3) a-c. For the purpose of this bill WUTC assumes that pipeline and rail regulatory staff are not law enforcement officers. This bill may require WUTC's Assistant Attorney General staff and WUTC staff to go to court to secure search warrants consistent with Section 2 (3) a of the bill. Although the WUTC may conduct upwards of 50 inspections per year in pipeline and 60 in the rail program, it is assumed that many of these inspections are done pursuant to express authority given to regulatory staff by site operators and owners. In circumstances where preapproval to inspect may not be easily obtained (as in the case of a non-fire or non-medical emergency), it may be necessary to get a search warrant. Since it is very speculative to estimate the number of times WUTC would need to pursue a search warrant in any given period, a conservative estimate of \$5,000 a year is used to cover Assistant Attorney General Costs and WUTC staff effort.

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.

It is very speculative to estimate the number of times WUTC would need to pursue a search warrant in any given year. Therefore, a conservative estimate of \$5,000 a year is used to cover Assistant Attorney General Costs and WUTC staff effort.

Benefits are calculated at 25% of salaries

## Part III: Expenditure Detail

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

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years					
A-Salaries and Wages	2,311	2,311	4,622	4,622	4,622
B-Employee Benefits	578	578	1,156	1,156	1,156
C-Personal Service Contracts					
E-Goods and Services	2,111	2,111	4,222	4,222	4,222
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					
<b>Total:</b>	\$5,000	\$5,000	\$10,000	\$10,000	\$10,000

**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 2004	FY 2005	2003-05	2005-07	2007-09
Director, Administrative Law	80,856	0.0	0.0			
Legal Secretary 1	26,988	0.0	0.0			
Sr Policy Strategist	61,596	0.0	0.0			
<b>Total FTE's</b>		0.0	0.0			0.0

## 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> 5108 SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 245-Military Department
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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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- ☐ 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:	Phone:	Date: 01/22/2003
Agency Preparation: Laura VanderMeer	Phone: (253) 512-7596	Date: 01/27/2003
Agency Approval: Gordon Toney	Phone: 253-512-8204	Date: 01/27/2003
OFM Review: Robin Campbell	Phone: 360-902-0575	Date: 01/31/2003

**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.*

It is assumed the change in 38.320.030 will have little to no impact on the Military Department.

**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> 5108 SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 303-Department of Health
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## Part I: Estimates

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

Legislative Contact:	Phone:	Date: 01/22/2003
Agency Preparation: Sheryl Reed	Phone: 360-236-3006	Date: 01/22/2003
Agency Approval: Terry Davis	Phone: 360-236-4530	Date: 01/24/2003
OFM Review: Elise Greef	Phone: 360-902-0539	Date: 01/25/2003

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, 28:

Declares that all persons, except for very limited circumstances, whether government employees or private persons, be made subject to criminal trespass laws in regard to entering upon the property of another. Current laws extend special immunities from trespass laws for government employees for conducting investigations for rule violations or compliance with issued permits. This law would make them subject to trespass laws if person is considered uninvited or unlawfully entering the property. The Division of Drinking Water envisions no impact because the bill preserves the immunity for employees that enter upon a property that has in some way requested a service, permit, certificate or license. Public water systems operate under an annually issued operating permit.

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.

Sections 1, 2, 28:

The Division of Drinking Water envisions no fiscal impact because the bill preserves the immunity for employees that enter upon a property that has in some way requested a service, permit, certificate or license. Public water systems operate under an annually issued operating permit. Therefore, the Division should incur no expense for legal representation against trespass charges for authorized staff conducting inspections of public water systems.

Part III: Expenditure Detail

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

<b>Bill Number:</b> 5108 SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 325-Sentencing Guidelines Commission
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## Part I: Estimates

☒ **No Fiscal Impact**

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

Legislative Contact:	Phone:	Date: 01/22/2003
Agency Preparation: Ed Vukich	Phone: (360) 956-2143	Date: 01/22/2003
Agency Approval: Paula Ditton	Phone: (360) 956-2134	Date: 01/24/2003
OFM Review: Randi Warick	Phone: 360-902-0570	Date: 01/29/2003

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.

Please see the attachment.

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.

Please see the attachment.

Part III: Expenditure Detail

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.

# SB 5108

## CRIMINAL TRESPASS

### 325 – Sentencing Guidelines Commission January 24, 2003

#### SUMMARY

**A brief description of what the measure does that has fiscal impact.**

- Section 1 indirectly amends and expands the definition of criminal trespass in the first degree, a gross misdemeanor, by expanding the definition of *enters or remains unlawfully* to include public officials and employees under certain circumstances.
- Section 1 additionally indirectly amends and expands the definition of criminal trespass in the second degree, a misdemeanor, by expanding the definition of *enters or remains unlawfully* to include public officials and employees under certain circumstances.

#### EXPENDITURES

**Assumptions.**

None.

**Impact on the Sentencing Guidelines Commission.**

None.

**Impact on prison and jail beds.**

This bill:

- Expands the definition of an existing gross misdemeanor offense; and
- Expands the definition of an existing misdemeanor offense.

The Sentencing Guidelines Commission's database does not include misdemeanor and gross misdemeanor offenses. Additionally, the Sentencing Guidelines Commission has no information about how the changes proposed by the bill would affect the number of sentences per fiscal year, or the sentence lengths that might actually be imposed, for the expanded misdemeanor and gross misdemeanor offenses. Therefore, the Commission cannot reliably estimate jail bed and prison bed impacts resulting from the bill. However:

- Since misdemeanor offenses are punishable by a term of confinement of 0-90 days in jail; and
- Since gross misdemeanor offenses are punishable by a term of confinement of 0-12 months in jail;

Any impact will be on jail beds only.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5108 SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 461-Department of Ecology
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

<b>FUND</b>					
<b>Total \$</b>					

### Estimated Expenditures from:

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	0.0	0.0	0.0	0.0	0.0
<b>Fund</b>					
GF - Federal-Federal 001-2	18,498	18,411	36,909	36,822	36,822
GF - State-State 001-1	18,498	18,411	36,909	36,822	36,822
<b>Total \$</b>	36,996	36,822	73,818	73,644	73,644

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

Legislative Contact:	Phone:	Date: 01/22/2003
Agency Preparation: Vince Chavez	Phone: (360) 407-7544	Date: 01/30/2003
Agency Approval: Nancy Stevenson	Phone: (360) 407-7007	Date: 01/30/2003
OFM Review: Ann-Marie Sweeten	Phone: 360-902-0538	Date: 01/30/2003

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 of the bill states, with certain limited exceptions, that all persons, whether government employees or private persons, would be made subject to the same restrictions with regard to entering upon the property of another. The bill's intent is to eliminate special immunities from prosecution for trespass, to make all persons subject to the same law (with exceptions from uniform application of that law only for the kinds of entries onto property by law enforcement officers and government personnel as specified in the bill).

Section 2(3) of the bill states that a public official or employee who enters and remains on another person's property has the right to remain in or upon premises:

- (a) When necessary to do so in response to a fire or a medical emergency;
- (b) When acting under authority of a warrant or other court order;
- (c) When the official or employee is a law enforcement officer entering or remaining under circumstances that are lawful as of the effective date of this act.

Also,

If a property owner has requested and obtained a service, permit, certificate, or license to have access to the owners property for the purpose of insuring that the requirements of the service, permit, certificate, or license are met, the provider is licensed to enter or remain upon that portion of the property to which the service, permit, certificate, or license pertains for that purpose.

Sections 3 through 51 of the bill adds language that would make all public officials, agents, or employees subject to the requirements outlined by RCW 9A.52.070 which states that a person is guilty of criminal trespass in the first degree if he or she knowingly enters or remains unlawfully in a building; and RCW 9A.52.080 which states that a person is guilty of criminal trespass in the second degree if he or she knowingly enters or remains unlawfully in or upon premises of another under circumstances not constituting criminal trespass in the first degree.

Section 2(3) of the bill does not define public health and environmental emergency situations as included lawful exceptions. If the property owner where regulated activities take place, or land owner adjacent to the property, does not agree that lawful property access was indeed lawful, Ecology could be challenged for illegal trespass, thus exposing the Department and its employees to the unnecessary time and expense required to litigate the charges.

Background:

Under current law, Ecology employees are required to follow and have been trained in the requirements defined by Ecology's policy on Accessing Private Property. This policy requires employees to contact property owners prior to entering private property to conduct an inspection.

Under federal law, Section 308 of the federal Clean Water Act (CWA), officials of federal environmental agencies have the authority upon presentation of credentials to enter private property to conduct an inspection.

Assumptions:

Ecology would continue its practice of obtaining permission from the land owner before entering private property to conduct an inspection.

Ecology has authority under federal law (Section 308 of CWA) as a law enforcement authority, consistent with the exceptions listed in Section 2(3) of this bill.

Ecology has been delegated authority under federal law to enter private property in response to an environmental emergency.

Despite Ecology's good-faith practices and authorities, this bill would result in increased litigation.

## **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.*

Our assumption is that Ecology would anticipate an increase in litigation charges regarding access to private property. On this basis, Ecology assumes at a minimum of 4-litigations per year (One litigation per year per region). Ecology estimates that it would need to expend approximately .03 FTE and .03 of an assistant attorney general to cover agency liability and associated costs. Estimates are as follows:

Attorney Time (hourly rate \$98 per hour – standard agency estimate)

2 Hrs to answer the lawsuit

20 Hrs for depositions

20 Hrs for court reporter

25 Hrs to prepare and file motions

20 Hrs to respond to written discovery

Total AGO per action =  $\$8,526 \times 4 = \$34,104$

Staff Time (.03 FTE per year – Environmental Specialist 4)

20 Hrs per action to assist attorney, respond to discovery, give depositions, attend hearing  $\times 4 = 80$  hrs per yr

Salaries and Wages are calculated at Range 55 Step H

Travel expenditures are calculated at the agency average of \$1,461 per FTE per year ( $1,461 \times .03 = \$44$ )

Goods and Services are calculated at the agency average of \$3,690 per FTE per year ( $3,690 \times .03 = \$111$ )

Agency overhead (39.7% of direct salaries and benefits) approximately \$728 per year ( $1,835 \times .397 = \$728$ )

Equipment calculated at the agency average of \$5,801 per FTE for initial year only ( $5,801 \times .03 = \$174$ )

Total Ecology cost per year = \$2,718

FTE Detail:

Salaries and Wages Detail: Direct program salaries are calculated at step ....

Employee Benefits for direct program staff are calculated at the agency average of 20.9% of salaries.

Goods and Services are calculated at the agency average of \$3,690 per direct FTE. Standard agency administrative overhead costs are also included.

Travel Expenditures are calculated at the agency average rate of \$1,461 per direct program FTE.

Equipment Detail: \$5,801 for start-up equipment is budgeted for each new direct FTE, based on current costs for an office

chair, 1/5 motor pool vehicle, and basic computer equipment.

### Part III: Expenditure Detail

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

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years					
A-	1,518	1,518	3,036	3,036	3,036
B-	317	317	634	634	634
C-					
E-	34,943	34,943	69,886	69,886	69,886
G-	44	44	88	88	88
J-	174		174		
N-					
P-					
S-					
<b>Total:</b>	\$36,996	\$36,822	\$73,818	\$73,644	\$73,644

#### 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 2004	FY 2005	2003-05	2005-07	2007-09
Environmental Spec 4	50,592	0.0	0.0			
<b>Total FTE's</b>		0.0	0.0			0.0

### 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> 5108 SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 477-Department of Fish and Wildlife
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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:	Phone:	Date: 01/22/2003
Agency Preparation: Lembit Ratassepp	Phone: 360-902-2447	Date: 01/23/2003
Agency Approval: James Lux	Phone: 360-902-2444	Date: 01/24/2003
OFM Review: Jim Skalski	Phone: 360-902-0654	Date: 01/30/2003

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5108 SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 490-Department of Natural Resources
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

FUND	FY 2004	FY 2005	2003-05	2005-07	2007-09
Forest Development Account-State 014-1	(1,000)	(1,000)	(2,000)	(4,000)	(6,000)
Resources Management Cost Account-State 041-1	(4,000)	(4,000)	(8,000)	(16,000)	(24,000)
Air Pollution Control Account-State 216-1	(3,000)	(3,000)	(6,000)	(6,000)	(6,000)
<b>Total \$</b>	(8,000)	(8,000)	(16,000)	(26,000)	(36,000)

### Estimated Expenditures from:

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	2.1	2.1	2.1	2.1	2.1
<b>Fund</b>					
General Fund-State 001-1	139,000	101,000	240,000	202,000	202,000
Forest Development Account-State 014-1	5,000	5,000	10,000	10,000	10,000
Resources Management Cost Account-State 041-1	19,000	19,000	38,000	38,000	38,000
Forest Fire Protection Assessment Account-Non-Appropriated 190-6	56,000	40,000	96,000	80,000	80,000
Air Pollution Control Account-State 216-1	15,000	11,000	26,000	22,000	22,000
<b>Total \$</b>	234,000	176,000	410,000	352,000	352,000

*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:

- ☒ 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:	Phone:	Date: 01/22/2003
Agency Preparation: James Blake	Phone: (360) 902-1279	Date: 01/22/2003
Agency Approval: Pat McElroy	Phone: (360) 902-1000	Date: 01/30/2003
OFM Review: Linda Steinmann	Phone: 360-902-0573	Date: 02/07/2003

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. Removes the special immunity from prosecution from trespass currently afforded to government officials. This requirement will increase the amount of time needed by department officials seeking permission to conduct inspections.

Section 2. Limits license afforded to the provider to enter or remain on the portion of the property that pertains to a service, permit, certificate or license. This may preclude the agency from conducting inspections on operations where no permit was issued. Specific permission to enter will be needed.

Sections 38, 39, 40, and 41. These sections refer to mineral mining contracts and coal leases on State managed Trust land. The bill restricts access to the property for safety inspections of mining operation only with lessee permission. It will also require lessee permission to inspect record and books related to financial information on which royalty payments to the Trust are based.

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.

Revenue impacts to funds 014 & 041 assume a 10% revenue loss from acreage anticipated royalty. Royalty is based on past revenue and increases based on successful discovery and development from current contracts and leases. The total reduction is split based on total statewide acres.

Revenue impacts to fund 216 assume a revenue reduction of 1% of estimated fiscal year 2003 revenues resulting from fewer requests and fewer permits issued in follow up to illegal burns (burning without a permit).

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.

DNR processes approximately 6500 Forest Practices Applications per year (5 year average). The provisions included in SB 5108 will result in the need for additional staff time to deal with seeking access permission for operations under permit. In addition, permission will be required to enter onto private land to inspect forest practices operations where no permit has been issued. Extra time needed to get these permissions are estimated to take an extra 1FTE of Forester 1 time.

Unless a landowner has applied for a permit, DNR staff who were following up on complaints, involved in monitoring activities or who observed a suspected violation, would not be able to enter onto improved or posted property unless they were a law enforcement officer. By definition, DNR forest practices staff, fire wardens, surface mine inspectors, state lands foresters scientists, etc are not law enforcement officers. This would make it difficult to assess possible violations, do fire tool inspections, conduct monitoring activities or even cross improved or posted property to do other business without acquiring prior permission or escorted by a law enforcement officer. Extra time needed to escort agency personnel in areas where permission cannot be obtained in a timely fashion is estimated to require 1 FTE of Natural Resource Investigator time (this position is considered a law enforcement position).

The bill allow access to the property for safety inspections of mining operation only with lessee permission. Securing this permission is estimated to take additional staff time estimated at 0.1 FTE for a Geologist 4.

Salaries and benefits are calculated based on current salary schedule and agency averages.

Goods and Services are estimated based on agency averages plus an additional cost to the Attorney General's Office (AGO) of 1 staff month per year at \$13,000 per staff month based on figures from the AGO.

Travel is based on agency averages plus an added amount to cover the cost of the investigator who would have to travel region wide on a regular bases to escort employees who could not gain voluntary access.

Capital Outlay costs include 2 vehicles for the added FTE's.

Intra-Agency Reimbursements include an indirect charge of 19.3% of salaries, benefits, goods & services, and travel. This amount is to cover the added costs of agency administration. Although no added administration staff is included in this fiscal note, the funds supporting the direct costs will be charged an increased amount because of the added staff time to be directly chaged.

## Part III: Expenditure Detail

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

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	2.1	2.1	2.1	2.1	2.1
A-Salaries and Wages	82,000	82,000	164,000	164,000	164,000
B-Employee Benefits	21,000	21,000	42,000	42,000	42,000
C-Personal Service Contracts					
E-Goods and Services	19,000	19,000	38,000	38,000	38,000
G-Travel	25,000	25,000	50,000	50,000	50,000
J-Capital Outlays	58,000		58,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	29,000	29,000	58,000	58,000	58,000
<b>Total:</b>	<b>\$234,000</b>	<b>\$176,000</b>	<b>\$410,000</b>	<b>\$352,000</b>	<b>\$352,000</b>

### 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 2004	FY 2005	2003-05	2005-07	2007-09
Forester 1	34,934	1.0	1.0	1.0	1.0	1.0
Geologist 4	49,380	0.1	0.1	0.1	0.1	0.1
Natural Resources Investigator	41,520	1.0	1.0	1.0	1.0	1.0
<b>Total FTE's</b>		<b>2.1</b>	<b>2.1</b>	<b>2.1</b>	<b>2.1</b>	<b>2.1</b>

### III. C - Expenditures By Program (optional)

Program	FY 2004	FY 2005	2003-05	2005-07	2007-09
Resource Protection (020)	210,000	152,000	362,000	304,000	304,000
Resource Management (030)	24,000	24,000	48,000	48,000	48,000
<b>Total \$</b>	<b>234,000</b>	<b>176,000</b>	<b>410,000</b>	<b>352,000</b>	<b>352,000</b>

## 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> 5108 SB	<b>Title:</b> Criminal trespass	<b>Agency:</b> 495-Department of Agriculture
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

<b>FUND</b>					
<b>Total \$</b>					

### Estimated Expenditures from:

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	1.0	1.0	1.0	1.0	1.0
<b>Fund</b>					
General Fund-State 001-1	390,288	390,288	780,576	780,576	780,576
<b>Total \$</b>	390,288	390,288	780,576	780,576	780,576

*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:	Phone:	Date: 01/22/2003
Agency Preparation: Mary Toohey	Phone: 360-902-1907	Date: 02/07/2003
Agency Approval: Mark Johnson	Phone: 360-902-1986	Date: 02/07/2003
OFM Review: Linda Steinmann	Phone: 360-902-0573	Date: 02/07/2003

## 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 and 2 apply to all activities of government at all levels (except, presumably, federal employees) and to all departments of state government, except for certain police, fire, and medical emergency situations. In addition, other statutes applicable to the Department of Agriculture are specifically amended in the bill. 1) RCW 15.09, removes the specific immunity from trespass or damages for the county horticultural pest board to enter property after "reasonable care" has been exercised, 2) RCW 15.13, removes an administrative remedy if WSDA is denied access to a licensee's nursery, 3) RCW 17.04, removes the right of entry for weed districts and the misdemeanor penalty for refusing them entry, 4) RCW 17.10, limits right of entry of county noxious weed boards, 5) RCW 17.21, limits WSDA right of entry for purposes of pesticide enforcement - equipment inspection, storage and disposal inspection, human injury investigation, and sampling, 6) RCW 17.24, limits WSDA right of entry for quarantine inspections.

With certain exceptions for activities conducted on the property of people with whom WSDA has a licensing or certification relationship, the effect of the bill would be to make it mandatory for any employee to obtain specific, usually written, permission before conducting any activity on private property.

Impacts to WSDA programs are as follows:

The bill limits the ability of state veterinarians to enter property to examine livestock in cases where the owner is unknown or unavailable to give specific consent. Preventing WSDA from access after an unsuccessful, reasonable attempt to locate the owner during a suspected outbreak of an animal disease (such as foot and mouth disease of cattle or hogs or exotic Newcastle disease of chickens and other birds) would have a potentially devastating impact on the state's livestock industry. Delays in examination, diagnosis and/or treatment due to the necessity to pursue warrants in cases where the ownership of the animals is unclear or unknown could result in loss of control of an epidemic. In addition to immediate losses to affected livestock owners, resulting quarantines would greatly reduce the ability of state livestock and animal products (i.e. eggs) producers to market their products. The projected losses for animal disease outbreaks cannot be quantified with available information.

The bill limits access to private property to survey for exotic, non-native pests (e.g. insects, plant diseases, noxious weeds, and other pests). In cases where the owner is unknown or unavailable to give specific, written consent, the effect of the bill would be to make a warrant required. Pest surveys place approximately 30,000 traps every summer, at least half of which are located on private land. Many of these properties are in residential neighborhoods, where an estimated 75% of residents are not home during the day, making an independent process for obtaining consent necessary.

The department's apple maggot survey presents additional challenges. This survey is necessary to verify the apple maggot free status of the commercial apple production regions of eastern Washington. If the necessary survey cannot be performed to international standards, foreign governments will quarantine Washington fruit and mandate additional inspections of produce at the ports, reducing market access for the state's growers and slowing traffic through the ports. In order for a survey to be valid in urban areas such as Yakima and Ellensburg, apple maggot traps must be placed in each host species tree, making it necessary for WSDA personnel to access every residential yard. If denied access it may be impossible to conduct a viable apple maggot survey.

Another area of potential impact is that if an employee cannot prove specific permission, the employee is vulnerable to criminal trespass charges. If an employee is convicted, under some circumstances there may be grounds for the employee to sue the state for damages, particularly loss of income, as a criminal conviction would restrict the employee's future employment options. This increases the liability exposure of the state. We do not have adequate information to quantify this risk at this time.

## 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.

To conduct survey activities, we estimate 1 additional FTE (Survey Entomologist), \$5,000 travel per year and \$10,000 mailing and printing per year would be necessary to conduct the consent process. We estimate we would be able to obtain written consent from approximately 75% of the residents or landowners. In those cases where written consent could not be obtained, we assume we could move 50% of the trap locations to public rights of way and still maintain a viable pest survey program. This would leave 1,875 potential warrant properties. Each warrant costs \$110 filing fee and an average of \$50 per warrant of AAG time. (Costs for individual warrants are much higher. However, the economies of scale would reduce the attorney time per warrant.) The estimated warrant costs would be \$300,000.

## Part III: Expenditure Detail

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

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	1.0	1.0	1.0	1.0	1.0
A-Salaries and Wages	34,932	34,932	69,864	69,864	69,864
B-Employee Benefits	9,781	9,781	19,562	19,562	19,562
C-Personal Service Contracts					
E-Goods and Services	310,000	310,000	620,000	620,000	620,000
G-Travel	5,000	5,000	10,000	10,000	10,000
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 @ 8.5%	30,575	30,575	61,150	61,150	61,150
<b>Total:</b>	<b>\$390,288</b>	<b>\$390,288</b>	<b>\$780,576</b>	<b>\$780,576</b>	<b>\$780,576</b>

**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 2004	FY 2005	2003-05	2005-07	2007-09
Entomologist, Survey	34,932	1.0	1.0	1.0	1.0	1.0
<b>Total FTE's</b>		<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>

## 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