

Individual State Agency Fiscal Note

Bill Number: 5421 SB	Title: Salmon fisheries disputes	Agency: 477-Department of Fish and Wildlife
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	2.1	1.5	1.8	1.5	1.5
Account					
General Fund-State 001-1	392,000	240,000	632,000	482,000	482,000
Total \$	392,000	240,000	632,000	482,000	482,000

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Jeff Olsen	Phone: 360-786-7428	Date: 02/04/2021
Agency Preparation: Aaron Harris	Phone: 360-902-8394	Date: 02/08/2021
Agency Approval: Aaron Harris	Phone: 360-902-8394	Date: 02/08/2021
OFM Review: Leslie Connelly	Phone: (360) 878-4371	Date: 02/08/2021

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 (1) Directs the department to establish a commercial salmon fishing advisory board. Board members include 2 tribal fishers, 2 state fishers, and an attorney as a dispute resolution mediator, and 2 WDFW staff.

Section 2 (2) Directs the advisory board to present a list of candidates for consideration for the dispute resolution mediator position who is chosen by the Director. This section also directs WDFW to provide administrative support.

Section 2 (3) Directs WDFW to report to the legislature on activities of the advisory board by December 2021.

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.

Assumptions

- For this fiscal note, WDFW assumes there will be tribal participation, although it will be difficult to achieve this. WDFW cannot compel tribal participation, two seats are not enough to represent all of the tribes involved, and there is no state jurisdiction for dispute resolution between independent tribal governments and the State of Washington.
- There will be two meetings per month for six hours each in FY22 and one meeting per month for four hours each in subsequent years. Once per year, new members will go through a four day orientation.

Section 2 requires WDFW to create an advisory board and select candidates for a mediator to be chosen by the Director.

1.0 FTE WMS2 staff time would be required in FY22 and 0.6 FTE in FY23 and ongoing to solicit membership and establish candidates for referral to the director for the mediator position, as well as write the report to the legislature. This position will bring, and explain, to the board knowledge of salmon fisheries, interaction of various management regimes (Federal, International, ESA implications), management plans by species, commercial fisheries gear and interactions of commercial fisheries between tribal and non-tribal entities. This effort represents two positions, one policy expert and one technical expert.

0.1 FTE IT Data Management – Public dissemination of information of proceedings.

1.0 FTE Admin 3 staff time would be required in FY22 and 0.8 FTE ongoing for recording, communication, record keeping, correspondence, scheduling, and support for mediator.

Dispute Resolution Technical Advisor, object C

This position would chair the Puget Sound Salmon Commercial Fisheries Advisory Board, and would be “an attorney well versed in mediation, with technical expertise in fisheries, and with extensive understanding of the

history of disputes and deviations from the rule of law between tribal and nontribal fisheries.” The method used to calculate the cost of the Dispute Resolution Technical Advisor is the mediation fee schedule from Washington Arbitration & Mediation Service (Attached). Rate structure "A" was used at \$1,900.00 per day. This rate could be as high as \$2,950.00 per day depending on the specialized level of expertise of the mediator.

Year one was calculated using twenty four meetings plus four additional days of orientation for new members per year. Following years were calculated using twelve meetings plus four additional days of orientation.

The total for FY22 is \$392,000. The total for FY23 and each fiscal year after is \$240,000.

Goods and services, Object E, includes \$7,000 per FTE, per year, for WDFW standard costs, which cover an average employee's supplies, communications, training, and subscription costs per year. An infrastructure and program support rate of 31.82 percent is included in Object T and is calculated based on WDFW’s federally approved indirect rate.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
001-1	General Fund	State	392,000	240,000	632,000	482,000	482,000
Total \$			392,000	240,000	632,000	482,000	482,000

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	2.1	1.5	1.8	1.5	1.5
A-Salaries and Wages	157,000	107,000	264,000	214,000	214,000
B-Employee Benefits	72,000	35,000	107,000	70,000	70,000
C-Professional Service Contracts	53,000	30,000	83,000	60,000	60,000
E-Goods and Other Services	15,000	10,000	25,000	22,000	22,000
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	95,000	58,000	153,000	116,000	116,000
9-					
Total \$	392,000	240,000	632,000	482,000	482,000

III. C - Operating FTE 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 2022	FY 2023	2021-23	2023-25	2025-27
Administrative Assistant 3	48,996	1.0	0.8	0.9	0.8	0.8
IT Data Management	78,000	0.1	0.1	0.1	0.1	0.1
Salmon Policy Expert WMS Band 2	110,000	0.5	0.3	0.4	0.3	0.3
Salmon Specialist WMS Band 2	90,000	0.5	0.3	0.4	0.3	0.3
Total FTEs		2.1	1.5	1.8	1.5	1.5

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required

2021 MEDIATOR BILLING RATES

Number of Parties	RATE A	RATE B	RATE C	RATE D	RATE E
Half Day / Per Party					
2	\$975	\$1150	\$1400	\$1500	\$1625
3	\$795	\$875	\$1100	\$1175	\$1300
4	\$725	\$800	\$975	\$1025	\$1150
Full Day / Per Party					
2	\$1900	\$2125	\$2450	\$2650	\$2950
3	\$1500	\$1650	\$2000	\$2100	\$2300
4	\$1350	\$1450	\$1750	\$1825	\$1925
5	\$1175	\$1275	\$1575	\$1600	\$1725
	Rate A Mediators	Rate B Mediators	Rate C Mediators	Rate D Mediators	Rate E Mediators
	Paul Chemnick	Monte Bersante**	Carolyn Cairns	Tom Harris	John Cooper
	Michelle Corsi**	Sharon J. Bitcon**	Harry Goldman	Scott Holte	Cliff Freed
	Don G. Daniel**	Jack Follis**	Hon. Don Horowitz (Ret.)	Tom Merrick	Margo Keller
	Pat Duffy**	Cynthia Morgan**	Bill Joyce	Hon. Sue Serko (Ret.)	
	Kevin Hanchett**	Mac Shelton		Kathleen Wareham	
	Tim Malarchick**				
	Judy Massong**				

Please inquire with a WAMS Case Administrator for 6+ party rates.

EXPRESS MEDIATION OPTION

*Mediators designated as ** above*

- 2-party cases only with demands below \$100k
- 3-hour engaged mediation session
- Briefing limited to 5 pages per party+exhibits
- Flat rate of \$650 per party
- Prepayment required for time reserved
- No cancellation fee

MEDIATION FEE POLICIES

- 1) Minimum and Staff Time Charged** The minimum time charged is the time reserved on the mediator's calendar. A \$75/hr office staffing surcharge applies to hearing time past 6:00 p.m. or on weekends at WAMS. The Seattle WAMS office is staffed for hearings from **7:30 a.m.-10:00 p.m.** Tacoma WAMS is open from **8:00 a.m.- 5:30 p.m. only.**
- 2) Ten (10) Business Day Cancellation Policy** A late cancellation fee may be assessed for hearings that are postponed or canceled absent good cause within ten (10) business days of a scheduled hearing. The per-party fee will be billed to each party's attorney (or per the parties' fee agreement), unless another matter can be scheduled to fill the time reserved on the calendar. **The cancellation notice must be received in writing at WAMS before 5:00 p.m. on the 10th business day before the mediation date to avoid a late cancellation fee. (The mediation date is not counted for cancellation purposes).** A case that settles or otherwise withdraws from mediation at least ten (10) business days prior to the mediation date will have no cancellation fee. Multi-day mediations have customized cancellation deadlines. There is no cancellation fee for the WAMS Express Mediation Option.
- 3) Mediator Billing Guidelines** Half Day, Full Day and Express Option rates include limited time to review submissions. Mediators bill hourly for excess review, travel and telephone time, pursuant to the fee agreement on file at time of scheduling. Base hourly rates for excess review of materials, travel, and telephone time are as follows: **Rate A** \$400/hour; **Rate B** \$450/hour; **Rate C** \$550/hour; **Rate D** \$575/hour; **Rate E** \$600/hour. Subsequent mediation sessions are scheduled and billed at rates then in effect.
- 4) Fee Responsibility** The mediation fee is billed to the attorneys or representatives of the parties to the mediation, with payment due within 45 days of invoicing as a condition of scheduling. **WAMS is not responsible for obtaining payment from individual or business clients of attorneys.** All representatives receive a mediation fee memo before the mediation session, with prepayment required in Express Mediation and of clients with no recent credit history with WAMS or based on the nature of the case.
- 5) Withdrawal/Settlement of a Party in Multi-Party Case** If a party involved in a multi-party mediation effort settles out or otherwise withdraws from the mediation **before** the cancellation deadline (and notifies WAMS as required in paragraph 2 above), there will be no further fee obligation for that party. If the withdrawal or settlement occurs **after** the late cancellation deadline and the remaining parties do not agree to reallocate the fee obligation, the withdrawing party remains obligated to share in the applicable fee reallocation.