

Individual State Agency Fiscal Note

Bill Number: 1166 HB	Title: Water quality trading prog.	Agency: 461-Department of Ecology
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Part I: Estimates

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No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Water Quality Permit Account-State 176-1	299,126	232,638	531,764	425,852	425,852
Total \$	299,126	232,638	531,764	425,852	425,852

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	2.0	1.6	1.8	1.5	1.5
Account					
Water Quality Permit Account-State 176-1	299,126	232,638	531,764	425,852	425,852
Total \$	299,126	232,638	531,764	425,852	425,852

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

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).

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Capital budget impact, complete Part IV.

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Requires new rule making, complete Part V.

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Agency Preparation: Leslie Connelly	Phone: 360-628-4381	Date: 01/15/2023
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 01/15/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/15/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

RCW 90.48.260 designates the Department of Ecology (Ecology) to be the state water pollution control agency for all purposes of the federal Clean Water Act. Under this authority, Ecology issues National Pollutant Discharge Elimination System (NPDES) Wastewater Discharge Permits to regulate direct discharges to surface waters. General water quality permits regulate specific discharge categories that release treated stormwater or wastewater to surface water. Ecology administers 16 different general permits and currently manages approximately 5,800 permits under these 16 categories.

The federal Clean Water Act requires states to develop a Total Maximum Daily Load (TMDL) plans for each water body on the state's polluted waters list, also known as the 303(d) list. A TMDL is a numerical value that represents the highest amount of a pollutant a surface water body can receive and still meet the standards.

RCW 90.48.465 directs Ecology to establish fees to collect expenses for issuing and administering each class of permits under RCW 90.48.160, 90.48.162, and 90.48.260. Ecology sets water quality permit fees by administrative rule in Chapter 173-224 WAC.

Under current law, Ecology does not have authority to implement a water quality trading program within the general permit categories for permits located where TMDLs have been issued.

This bill would amend RCW 90.48.260 to establish a temperature water quality trading program for recipients of NPDES general permits.

Section 1 adds a new subsection (5) that would direct Ecology to offer a watershed-based water quality trading program to NPDES general permittees that:

- discharge to a waterbody that has a temperature TMDL allocation and
- are out of compliance with their permit.

Ecology would need to offer incentives as part of the trading program whenever feasible for improvements in the built environment or that otherwise address the urban heat island effect on waters of the state.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

The cash receipts impact to Ecology under this bill is estimated to be greater than \$50,000 in Fiscal Year (FY) 2024 and ongoing for water quality permit fee revenue to cover the costs of implementing section 1(5).

Section 1(5)

RCW 90.48.465 directs Ecology to establish fees to cover the costs of administering NPDES general permits under RCW 90.48.260. As section 1(5) would direct Ecology to administer a water quality permit trading program, Ecology would establish fees through rulemaking to cover the costs of this new permit requirement consistent with the requirements of RCW 90.48.465. Fees could be assessed for specific water quality trading permits or a fee increase could be spread across the general permit fee structure. How the fee would be assessed would be determined during the agency's regular biennial rulemaking process when all water quality permit fees are evaluated.

For purposes of this fiscal note, Ecology assumes permit fees would increase to cover the expenditures associated with the bill. Receipts are deposited in the Water Quality Permit Account.

FY 2024: \$299,126

FY 2025: \$232,638
FY 2026 and ongoing: \$212,926

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

The expenditure impact to Ecology under this bill is estimated to be greater than \$50,000 in Fiscal Year (FY) 2024 and ongoing to implement the requirements of section 1(5). Ecology would also have indeterminate costs for offering incentives as part of the trading program.

Section 1(5)

Ecology would be required to research, develop, and implement a water quality temperature trading program for one or more NPDES general permits. We assume researching, stakeholder and tribal involvement, drafting, and finalizing a temperature trading structure for general permits would take at least one and a half years, with the external involvement being a key driver in length of development process.

Ecology estimates the following staff would be required to create and implement the trading program, revise the general permits, conduct stakeholder work, and seek the Environmental Protection Agency (EPA) approval:

Environmental Planner 4 (1.0 FTE in FY 2024 and ongoing) – An EP4 permit administrator would serve as lead for developing and implementing the water quality trading program for NPDES general permits. Duties would include researching trading programs, coordinating with general permit writers and TMDL specialists, developing and implementing trading program structure, drafting guidance for incorporation of trading program into general permit guidance, identifying funding structures, reviewing trade agreements, reporting, serving as business lead for development of a trade registry IT system, collaborating with the EPA, and conducting stakeholder outreach and workshops.

Environmental Engineer 5 (0.25 FTE in FY 2024 and first half of FY 2025, and 0.10 FTE in FY 2026 and ongoing). An EE5 would develop temperature modeling to identify trading opportunities in waterbodies with TMDLs, develop trading ratios within those waterbodies, quantify surface water impacts of BMP implementation and provide technical support to the EP4 and permittees. Developing the modeling tools would be the initial focus of this position the first year and a half, then shift to verifying trading ratios and other technical information submitted with trade agreements for specific permits ongoing.

IT Application Developer (0.50 FTE in FY 2024 and first half of FY 2025, and 0.10 FTE in FY 2026 and ongoing). An IT Application Developer would develop an online trading registry and provide ongoing maintenance.

Environmental Specialist 3 (0.10 FTE starting in FY 2026 and ongoing). An ES3 would serve as a lead permit inspector for the water quality trading program, would verify trading compliance with the general permits, and assist in review of trade agreements with permittees.

Ecology would also need to offer incentives as part of the trading program whenever feasible for improvements in the built environment or that otherwise address the urban heat island effect on waters of the state. Lacking any details about the incentive program intended, those potential costs are considered indeterminate. Ecology currently offers regulatory incentives for tree retention in our stormwater permits, and we directly fund projects designed to reduce temperatures, typically riparian tree plantings in the nonpoint setting and a combination of constructed wetlands and tree planting at municipal facilities. Ecology would explore other incentives as part of development of the water quality trading program.

Ecology assumes costs would be from the Water Quality Permit Account, and that we would amend Chapter 173-224 WAC to assess water quality permit fees to cover the cost to administer the water quality trading program. Ecology assumes this rulemaking would occur simultaneously with the regular biennial update to the water quality permit fees and would have no additional costs.

SUMMARY: The expenditure impact to Ecology under this bill is:

FY 2024: \$299,126 and 2.01 FTEs

FY 2025: \$232,638 and 1.59 FTEs

FY 2026 and ongoing: \$212,926 and 1.50 FTEs

Salary estimates are current biennium actual rates at Step L.

Benefits are the agency average of 36% of salaries.

Goods and Services are the agency average of \$5,224 per direct program FTE.

Travel is the agency average of \$1,563 per direct program FTE.

Equipment is the agency average of \$1,031 per direct program FTE.

Agency Administrative Overhead is calculated at the federally approved agency indirect rate of 28.75% 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 App Development - Journey.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
176-1	Water Quality Permit Account	State	299,126	232,638	531,764	425,852	425,852
Total \$			299,126	232,638	531,764	425,852	425,852

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	2.0	1.6	1.8	1.5	1.5
A-Salaries and Wages	163,017	126,699	289,716	231,598	231,598
B-Employee Benefits	58,686	45,611	104,297	83,376	83,376
E-Goods and Other Services	9,142	7,209	16,351	13,580	13,580
G-Travel	2,736	2,157	4,893	4,062	4,062
J-Capital Outlays	1,805	1,423	3,228	2,680	2,680
9-Agency Administrative Overhead	63,740	49,539	113,279	90,556	90,556
Total \$	299,126	232,638	531,764	425,852	425,852

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

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 2024	FY 2025	2023-25	2025-27	2027-29
ENVIRONMENTAL ENGINEER 5	108,804	0.3	0.1	0.2	0.1	0.1
ENVIRONMENTAL PLANNER 4	89,292	1.0	1.0	1.0	1.0	1.0
ENVIRONMENTAL SPEC 3	63,216				0.1	0.1
FISCAL ANALYST 2		0.2	0.1	0.2	0.1	0.1
IT APP DEV-ENTRY	93,048	0.5	0.3	0.4	0.1	0.1
IT APP DEV-JOURNEY		0.1	0.1	0.1	0.1	0.1
Total FTEs		2.0	1.6	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

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

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

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Ecology would amend Chapter 173-224 WAC to assess water quality permit fees to cover the cost to administer the water quality trading program required under section 1(5). Ecology assumes this rulemaking would occur simultaneously with the regular biennial update to the water quality permit fees.



Ten-Year Analysis

Bill Number	Title	Agency
1166 HB	Water quality trading prog.	461 Department of Ecology

This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

☐ No Cash Receipts ☐ Partially Indeterminate Cash Receipts ☐ Indeterminate Cash Receipts

Estimated Cash Receipts

Name of Tax or Fee	Acct Code	Fiscal Year 2024	Fiscal Year 2025	Fiscal Year 2026	Fiscal Year 2027	Fiscal Year 2028	Fiscal Year 2029	Fiscal Year 2030	Fiscal Year 2031	Fiscal Year 2032	Fiscal Year 2033	2024-33 TOTAL
Water Quality Permit Fee	176	299,126	232,638	212,926	212,926	212,926	212,926	212,926	212,926	212,926	212,926	2,235,172
Total		299,126	232,638	212,926	212,926	212,926	212,926	212,926	212,926	212,926	212,926	2,235,172
Biennial Totals		531,764		425,852		425,852		425,852		425,852		2,235,172

Narrative Explanation (Required for Indeterminate Cash Receipts)

Water Quality Permit Fees under section 1(5)

RCW 90.48.465 directs Ecology to establish fees to cover the costs of administering NPDES general permits under RCW 90.48.260. As section 1(5) would amend RCW 90.48.260 to direct Ecology to administer a water quality permit trading program, Ecology would establish fees through rulemaking to cover the costs of this new permit requirement. Fees could be assessed for specific water quality trading permits or a fee increase could be spread across the general permit fee structure. How the fee would be assessed would be determined during the agency's regular biennial rulemaking process when all water quality permit fees are evaluated.

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Ten-Year Analysis

Bill Number	Title	Agency
1166 HB	Water quality trading prog.	461 Department of Ecology

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