

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5192 SB	<b>Title:</b> Derelict vessel appeals
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## Estimated Cash Receipts

NONE

## Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Environmental and Land Use Hearings Office	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Natural Resources	.0	0	0	0	.0	0	0	0	.0	0	0	0
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0</b>

## Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Environmental and Land Use Hearings Office	.0	0	0	.0	0	0	.0	0	0
Department of Natural Resources	.0	0	0	.0	0	0	.0	0	0
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

## Estimated Capital Budget Breakout

<b>Prepared by:</b> Lisa Borkowski, OFM	<b>Phone:</b> (360) 742-2239	<b>Date Published:</b> Final
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5192 SB	<b>Title:</b> Derelict vessel appeals	<b>Agency:</b> 468-Environmental and Land Use Hearings Office
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

NONE

**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: 01/10/2023
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 01/13/2023
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 01/13/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/16/2023

## 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.*

The Department of Natural Resources (DNR) oversees the derelict vessel program (RCW 79.100). DNR, ports and other entities have authority to enforce derelict vessel regulations, including removing and disposing of the vessel and seeking reimbursement for costs. Appellants can challenge enforcement actions by appealing to the Pollution Control Hearings Board (PCHB) (RCW 79.100.120). The PCHB has jurisdiction to hear appeals of decisions to take temporary custody or possession of a vessel, and to seek reimbursement for costs (RCW 43.21B.110).

The PCHB is a 3-member full-time board appointed by the Governor. There are currently two judges who are hired by the Environmental and Land Use Hearings Office (ELUHO) Director to support the PCHB. The judges preside over cases, including prehearing procedures, hearings, and conferences, and ruling on evidentiary and procedural matters. They conduct legal research and writing, mediate cases, draft Board memos and materials as directed by the Board members, and perform other legal duties to assist the Board. The Board members make case decisions and issue orders.

In 2022, the PCHB received 14 derelict vessel appeals. Unless the vessel is redeemed before the appeal is filed, the derelict vessel hearings must be held within 10 days of filing the appeal.

The bill would change DNR's program statute (RCW 79.100.120(2)(c)) to reflect the existing language in the PCHB statute (RCW 43.21B.305 (2)) that allows an Administrative Law Judge (judge) to substitute for a Board member to independently hear and decide derelict vessel appeals.

Most PCHB cases require a quorum of the Board (at least two members) to decide the case. However, the PCHB derelict vessel statute (RCW 43.21B.305(1)) expressly allows a single Board member to decide the appeal. The statute goes on in Section 2 to allow a judge to substitute for a Board member, thereby allowing a single judge to decide these cases. On the other hand, the DNR program statute allows the appeal to be heard by a single Board member but does not include the language allowing a judge to substitute for a Board member. The language allowing a judge to substitute for a Board member is not included in the DNR statute.

- "In an appeal that involves a penalty of fifteen thousand dollars or less or that involves a derelict or abandoned vessel under RCW 79.100.120, the appeal may be heard by one member of the board, whose decision shall be the final decision of the board....For appeals that involve a derelict or abandoned vessel under RCW 79.100.120 only, an administrative law judge employed by the board may be substituted for a board member under this section." RCW 43.21B.305 – Board statute

- "Consistent with RCW 43.21B.305, a proceeding brought under this subsection may be heard by one member of the pollution control hearings board, whose decision is the final decision of the board." RCW 79.100.120 2 (c) – DNR Program statute

This change will align the two statutes and reduce confusion by appellants, many of whom are unrepresented by an attorney.

### 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.*

NONE

### 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.*

NONE

### **Part III: Expenditure Detail**

#### **III. A - Operating Budget Expenditures**

NONE

#### **III. B - Expenditures by Object Or Purpose**

NONE

**III. C - Operating FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

#### **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

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.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5192 SB	<b>Title:</b> Derelict vessel appeals	<b>Agency:</b> 490-Department of Natural Resources
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

NONE

**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: 01/10/2023
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Agency Approval: Nicole Dixon	Phone: 360-902-1155	Date: 01/16/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/16/2023

## 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.*

Section 1 changes RCW 79.100.120 to reflect the existing language in RCW 43.21B.305 that expressly allows an Administrative Law Judge to hear and decide derelict vessel appeals before the Pollution Control Hearings Board. This change is transparent to Department of Natural Resources (DNR) and will not create a fiscal impact as the availability of someone to hear Derelict Vessel Removal Program appeals has never been a limiting factor for DNR.

### 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.*

### 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.*

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

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

NONE

**III. C - Operating FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

### 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.*