

Individual State Agency Fiscal Note

Bill Number: 2235 HB	Title: Water quality data/salmon	Agency: 461-Department of Ecology
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	12.9	6.5	12.2	11.8
Account					
General Fund-State 001-1	0	1,849,862	1,849,862	3,439,083	3,307,666
Total \$	0	1,849,862	1,849,862	3,439,083	3,307,666

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: Robert Hatfield	Phone: 360-786-7117	Date: 01/10/2024
Agency Preparation: Ligeia Heagy	Phone: 564-233-8279	Date: 01/26/2024
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 01/26/2024
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/30/2024

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.

Currently, there is no state law that governs water quality assessments. Section 305(b) of the federal Clean Water Act (CWA) requires states to complete a comprehensive assessment of water quality every two years and submit that assessment, along with a list of waterbodies not meeting their designated uses (Section 303(d)) to the Environmental Protection Agency (EPA) for approval.

Under current state law, Chapter 90.48 RCW designates Ecology to be the state water pollution control agency for all purposes of the CWA. RCW 90.48.580 requires Ecology to follow certain requirements for use of credible data, information and literature for developing a surface water quality standard or technical model used to establish a total maximum daily load for any surface water of the state. In the surface water quality standards rules, WAC 173-201A-330 – Tier III - Protection of Outstanding Resource Waters establishes protections for Tier III(A) and Tier III(B) outstanding resource waters and provides the rules and process for adopting designations. This WAC section also includes a list of five criteria for which a waterbody may be eligible for designation (“eligibility criteria”).

Section 2 of this bill would add a new section to Chapter 90.48 RCW requiring Ecology to submit an inventory report of polluted waters to the Legislature by December 1 every year. Minimum requirements of the report would be:

- Section 2(1): address the timeliness of Ecology’s water quality assessment process as it relates to Clean Water Act requirements and state whether the reporting obligation can be and will be fulfilled based on current staffing and funding levels for data collection. If the department has reason to anticipate noncompliance with federal biennial reporting obligations, Ecology would include in the report an assessment of the funding and staffing levels and programmatic changes that would be necessary to achieve not only minimum levels of federal compliance but also to produce a comprehensive assessment of water quality for all water bodies and water body segments that are feasible to assess.
- Section 2(2): provide information on the number of water bodies and water body segments successfully cleaned up over the preceding year to the point of removal from the list of water bodies listed as impaired under the p. 2 HB 2235 federal clean water act, and the number of newly added water bodies and water body segments over the same interval. The report would need to contain the currently known number of water bodies and water body segments that are listed as impaired for one or more pollutants, an identification of the number of water bodies and water body segments that are impaired for each type of pollutant for which recordkeeping is federally required, and the approximate percentage of total water bodies and water body segments for which data were gathered.
- Section 2(3): provide a comparative description of state funding and department staffing levels for water quality monitoring, assessment, and improvement, a description of trends in those staffing and funding levels, and a reference comparison to state funding and staffing levels for air quality monitoring, assessment, and improvement over the same time period.
- Section 2(4): provide a description of available scientific knowledge on the relationship between existing water pollution levels and types in Washington waters and salmon mortality, including any known quantitative assessment of the salmon population levels Washington would have if its water bodies met federal and state water quality levels. In each subsequent report, this description must be updated to reflect any newly published peer-reviewed research that is specific to Washington waters and Washington salmon.

Section 3 would amend RCW 90.48.580 and 2004 c 228 requiring Ecology to use credible information and literature when designating Outstanding Resource Waters and establishing baseline water quality prior to proposing waterbodies.

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.

The expenditure impact to Ecology is estimated to be greater than \$50,000 starting in FY 2025 and ongoing to implement the requirements of sections 2 and 3.

Section 2 – Annual Inventory and Report

Section 2 would require Ecology to submit an annual “inventory of polluted waters of Washington state” to the Legislature.

Under section 2(2), Ecology would need to provide information on the number of water bodies and water body segments successfully cleaned up over the preceding year, the number of newly added water bodies and water body segments, the number and identification of water bodies and water body segments that are listed as impaired for one or more pollutants, and the approximate percentage of total water bodies and water body segments for which data were gathered. Ecology assumes we would need to conduct an inventory each year in order to provide this information.

Section 2 would also specify additional elements that must be reported on in the inventory, including the status of the federal water quality assessment process and recommendations for process improvements to meet requirements, information for staffing levels for monitoring, assessment, and improvement, trends, and its relationship to the Air Quality program, and an assessment of the salmon population levels Washington would have if its water bodies met federal and state water quality levels.

Currently, Ecology works to conduct a water quality assessment and provide it to the EPA, which is due every two years. As noted in the bill, Ecology has not been timely with meeting the biennial assessment requirement. Ecology estimates 3 additional FTEs would be necessary to improve timeliness for the biennial assessment, not included in this fiscal note.

Under this bill, Ecology would need to conduct an inventory each year, changing from a two-year cycle to a one-year interval. Ecology assumes that the work to conduct an inventory each year, compared to the two-year cycle, would require additional staffing. In addition, the state inventory and report required under this bill has additional elements that Ecology would be required to report on, which would require additional staffing.

Ecology estimates the following new resources would be necessary starting in FY 2025 to complete the annual reporting requirements as outlined in section 2.

- 5.0 FTE Natural Resource Scientist (NRS) 2 and 1.0 FTE NRS 3 in the Water Quality, Environmental Assessment, and Toxics Cleanup programs to conduct the inventory annually instead of once per biennium, and to meet the additional reporting requirements. Staff would provide complex surface water quality data analysis, sediment quality data analysis, marine data analysis, quality assurance, and water and tissue-based toxics data analysis, reporting the findings to the Legislature, and keeping assessment policies current. It would also include providing information for monitoring, assessment, and improvement, trends, and its relationship to the Air Quality program, providing information as outlined in Section 2(4) that is not part of current biennial federal requirements, and coordination with Washington State Department of Fish & Wildlife to obtain salmon population data and impacts in order to provide the assessment results. Staffing needs are estimated based on Ecology’s experience conducting the federal assessment, the increased speed the analyses would need to occur, and estimated workload for the additional requirements Ecology would need to report on.

- 1.0 FTE Environmental Specialist 4, 2.0 FTE IT App Development Journey, and 0.25 FTE IT App Development Senior in the Water Quality program and IT Services Office to manage the necessary data and systems. Ecology utilizes several IT systems for water quality inventories, including the Water Assessment Tracking System (WATS) database that tracks water quality and sediment assessments, the Approved WQA database that provides public access to the assessment data, a map application (WQ Atlas) that assists staff quickly and accurately determine the status and health of waters of the state, the Water Quality Automated Assessment Tool that assists in analysis of surface water, fish/shellfish tissue, and sediment data, and EIM (Environmental Information Management System), which is Ecology's central database for environmental monitoring data. Ecology assumes we would need to upgrade and maintain these applications to meet the more frequent inventory requirements under this bill. Staff would be required to develop and manage databases and the online mapping tool, upload water quality data to the EIM database, and assist external data submitters in submission of data.

Section 3 - Outstanding Resource Waters Designations

Section 3 would require Ecology to use credible information and literature when designating Outstanding Resource Waters (ORWs) and establishing baseline water quality prior to proposing waterbodies.

Ecology assumes that under this bill, a waterbody would need to have field-collected surface water quality samples or modeling information that supports one or more of the eligibility criteria prior to designation, as that is how other items under the current RCW have been interpreted (RCW 90.48.580 (2)(a-c)).

Currently, Ecology uses high-quality, credible data to designate ORWs. However, we have not needed field-collected surface water quality data for determinations in the past for multiple reasons. Not all of the eligibility criteria are directly related to surface water quality data (Examples: WAC 173-201A-330 1(b) Unique habitat and regionally rare habitat, 1(d) the water is of exceptional statewide ecology significance). Additionally, when demonstrating a waterbody is of relatively pristine condition or largely absent of human sources of degradation (criteria found in WAC 173-201A-330 1(a)), we have taken the approach of reviewing land-use information, land-ownership information, identifying any potential permitted pollution sources in the watershed, and reviewing any other information relevant to pollution sources in the watershed.

Ecology estimates the following new resources would be necessary starting in FY 2025:

- 1.0 FTE Natural Resource Scientist 3 to develop monitoring plans and any necessary quality assurance documents, conduct monitoring, analyze data in conjunction with existing available scientific information, and write-up their findings to support ORW Designations.
 - o The monitoring events will require an estimated one-time funding of \$20,000 in FY 2025 to purchase equipment,
 - o The monitoring events will require an estimated on-going funding amount of \$35,000 starting in FY 2025 to cover lab fees, sampling supplies, and other sampling expenses; this is an average annual estimate, because costs can vary by waterbodies.

In addition, Section 3 would require Ecology to complete a rulemaking to amend WAC 173-201A-330 to reflect the credible data requirement when considering the eligibility of outstanding resource waters. Ecology estimates that this rulemaking would be moderately complex and generate substantial public interest and comment. Ecology also estimates that the rulemaking would require eighteen months to complete, from July 2024 through December 2025. This rulemaking would include preproposal meetings to gather input from stakeholders and develop the Environmental Justice Assessment, and two public hearings to accept comments on the rule proposal. Ecology estimates the following staffing needs:

- 1.0 FTE of an Environmental Planner 4 in FY 2025 and 0.5 FTE in FY 2026 to coordinate the rulemaking effort, serve as the technical subject matter expert, and manage outreach for the duration of the rulemaking process.
- The following positions would complete an economic and regulatory analysis of the rule in FY 2026: Economic Analyst 3, 0.2 FTE; Regulatory Analyst 2, 0.05 FTE.
- The Attorney General's Office assumes no new fiscal impact.

SUMMARY: The expenditure impact to Ecology is as follows:

Section 2 is estimated to require:

FY 2025 and ongoing: \$1,454,731 and 10.6 FTEs

Section 3 is estimated to require:

FY 2025: \$395,131 and 2.3 FTEs

FY 2026: \$330,519 and 2.1 FTEs

FY 2027 and ongoing: \$199,102 and 1.2 FTEs

THE TOTAL EXPENDITURE IMPACT to Ecology under this bill is estimated to be:

FY 2025: \$1,849,862 and 12.9 FTEs

FY 2026: \$1,785,250 and 12.7 FTEs

FY 2027 and ongoing: \$1,653,833 and 11.8 FTEs.

Notes on costs by object:

Salary estimates are current biennium actual rates at Step L.

Benefits are the agency average of 34.1% of salaries.

Goods and Services are the agency average of \$6,048 per direct program FTE. Goods and Services also includes \$20,000 in FY 2025 for equipment costs, and \$35,000 in FY 2025 and ongoing for monitoring costs.

Travel is the agency average of \$2,205 per direct program FTE.

Equipment is the agency average of \$1,286 per direct program FTE.

Agency Administrative Overhead is calculated at the federally approved agency indirect rate of 29.8% 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
001-1	General Fund	State	0	1,849,862	1,849,862	3,439,083	3,307,666
Total \$			0	1,849,862	1,849,862	3,439,083	3,307,666

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		12.9	6.5	12.2	11.8
A-Salaries and Wages		969,511	969,511	1,819,112	1,747,722
B-Employee Benefits		330,604	330,604	620,318	595,974
E-Goods and Other Services		123,040	123,040	198,520	193,984
G-Travel		24,806	24,806	46,856	45,202
J-Capital Outlays		14,468	14,468	27,328	26,364
9-Agency Administrative Overhead		387,433	387,433	726,949	698,420
Total \$	0	1,849,862	1,849,862	3,439,083	3,307,666

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
ECONOMIC ANALYST 3	95,627				0.1	
ENVIRONMENTAL PLANNER 4	95,650		1.0	0.5	0.3	
ENVIRONMENTAL SPEC 4	86,324		1.0	0.5	1.0	1.0
FISCAL ANALYST 2			1.1	0.6	1.1	1.0
IT APP DEVELOPMENT-SR/SPEC	124,071		0.3	0.1	0.3	0.3
IT APP DEV-JOURNEY	107,154		2.0	1.0	2.0	2.0
IT APP DEV-JOURNEY (Admin)			0.6	0.3	0.5	0.5
NATURAL RES SCIENTIST 2	72,923		5.0	2.5	5.0	5.0
NATURAL RES SCIENTIST 3	88,798		2.0	1.0	2.0	2.0
REGULATORY ANALYST 2	88,798				0.0	
Total FTEs			12.9	6.5	12.2	11.8

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.

Section 3 would require Ecology to complete a rulemaking to amend WAC 173-201A-330 to reflect the credible data requirement when considering the eligibility of outstanding resource waters.