Individual State Agency Fiscal Note

Revised

Bill Number: 5957 2S SB	Title: Water quality data	Agency: 461-Department of Ecology

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

FUND					
Total $					

Estimated Expenditures from:

	FY 2004	FY 2005	2003-05	2005-07	2007-09
FTE Staff Years	0.0	9.2	4.6	8.1	8.0
Fund					
GF - State-State 001-1	0	977,496	977,496	1,539,239	1,564,608
Total $	0	977,496	977,496	1,539,239	1,564,608

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: 02/11/2004
Agency Preparation:	Vince Chavez	Phone: (360) 407-7544	Date: 02/17/2004
Agency Approval:	Nancy Stevenson	Phone: (360) 407-7007	Date: 02/17/2004
OFM Review:	Ann-Marie Sweeten	Phone: 360-902-0538	Date: 02/17/2004

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.

The intent of this bill is to establish a system of standards and procedures to ensure that only credible water quality data would be used as the basis for specific state water quality programs.

Section 3(1) would require that Ecology use only credible data for the following actions:
(a) Developing and reviewing any water quality standard. (Currently, Ecology relies on scientific studies and literature for setting water quality standards. Most of these studies are conducted by others.)
(b) Determining whether any water of the state is to be placed on or removed from any section 303(d) list. (Currently, Ecology has detailed policies in place to control the quality of this data, whether it is produced by Ecology or others.)
(c) Establishing a total maximum daily load (TMDL) for any water of the state. (For TMDL studies, Ecology controls data quality through its own protocols, and through contract specifications and review where other entities conduct the data.)
(d) Determining whether any water of the state is supporting its designated use or other classification.
(e) Determining any degradation of a water of the state. (Most of these determinations would be made through the 303(d) listing process. Other applications are not specified by rule.)

Section 3(3), would require Ecology to review the credibility of data used for decisions on water quality standards, the 303(d) list, or TMDLs that were made before the passage of this bill. This review would be required whenever requested by "a person being regulated under 90.48". There would be no cost or other disadvantage to making such a request by an affected party who wished the data not to be used or wished to delay the effect of the decision. Therefore, it would be likely that Ecology would receive many requests. In addition, 90.48 is broad and essentially regulates the behavior of all people in the state, so the subsection would not really limit who could object.

Section 4(1)(a) through (e) would impose five requirements governing the collection of water quality data:
(a) Appropriate quality assurance and quality control procedures would have to be followed and documented in collecting and analyzing the data;
(b) The samples or analyses would have to be representative of water quality conditions at the time the data was collected;
(c) The data would have to consist of an adequate number of samples based on the nature of the water in question and the parameters being analyzed;
(d) The method of sampling and analysis, including analytical, statistical, and modeling methods, would have to be generally accepted and validated in the scientific community as appropriate for use in assessing the condition of the water;
(e) The data would have to be collected in a manner consistent with the requirements of this section.

Section 4(2) would create a new procedural requirement to "adopt rules describing the training and experience required for a person to be a qualified data collector." This section describes the content for these rules. This section would also require that Ecology:
- authorize other individuals with appropriate training to become trainers;
- verify that a person submitting data is a qualified data collector;
- review all data collected and determine accuracy; and
- make a determination whether the data is credible.

Section 5 would require the department to consider the nature of the water body, including whether it is ephemeral, in assessing whether it is impaired. (Currently, this determination generally is made during a TMDL study, in establishing appropriate TMDL implementation plans, or in conducting use attainability analysis ((UAAs)) – not at the time of listing.)

Section 6 would add language to punish Ecology employees who knowingly misrepresent data.

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.

This bill has three areas that would involve fiscal impacts:

1. Rule-making - Section 4(2) The range of costs for water quality rule-making is $40,000 for the simplest rules to $1,500,000 for updating the water quality standards, with the cost of an 'average' rule of about $200,000. This rule-making would be a bit more difficult than average, because it includes both technical issues and controversies (deciding who is allowed to collect data and how to do it).

For the purposes of this note, Ecology estimates a cost of $250,000 to $500,000. Cost estimates assume 1.0 FTE at an Environmental Specialist 4 (ES4) and .50 FTE of an Environmental Specialist 3 (ES3) level to work 1.5 years for rule-making. Also, additional costs for goods and services for postage, mail-outs, and hearings totaling $75,000.
FY05:
Salary (ES4) = $53,136 x 1.0 FTE = $53,136;
Salary (ES3) = $45,816 x .50 FTE = $22,908;
Benefits = $76,044 x 21.1% (agency standard) = $16,045;
Goods and Services = $99,578;
Travel = $1,299 (agency standard) x 1.5 FTE = $1,949;
Equipment = $6,302 (for startup equipment budgeted for each new direct FTE) x 1.5 FTE = $9,453 (FY05 only)
FY06:
Salary (ES4) = $53,136 x .50 FTE = $26,568;
Salary (ES3) = $45,816 x .25 FTE = $11,454;
Benefits = $38,022 x 21.1% (agency standard) = $8,023;
Goods and Services = $40,415;
Travel = $1,299 (agency standard) x .75 FTE = $974
Total costs for this section in the 2003-05 biennium = $203,069 (FY05 only); FY06 = $87,434

2. Data credibility review – Section 3(3) and Section 4(2) Section 3 would require that Ecology respond to data credibility review requests on actions prior to this bill adoption.

Section 4(2) would require Ecology to adopt a process to verify that a person submitting data is a qualified data collector, review all the data they collected and verify the accuracy of the data, evaluate whether credible data was used, and, if not, to ensure compliance with the requirements defined by the bill.

It is assumed that it would require 1.0 FTE of an WMS band 1 level, 2.0 FTE of an Environmental Specialist 5 (ES5) level, 2.0 FTE of an Environmental Specialist 4 (ES4) level, 2.0 FTE of an Environmental Specialist 3 (ES3) level, and .70 FTE of an Environmental Specialist 2 (ES2) level to provide qualification services to verify the accuracy of the data that is collected and to ensure compliance with the requirements defined by the bill.
[NOTE: The scope of Ecology's current lab accreditation section certifies that labs are capable of producing quality data, not to verify the quality of the data they produce. Tthe potential costs associated with section 4(2) could be much higher than what is projected in this note if a verification system is intended.]

Salary (WMS band 1) = $59,832 x 1.0 FTE = $59,832 per year;
Salary (ES5) = $58,656 x 2.0 FTE = $117,312 per year;
Salary (ES4) = $53,136 x 2.0 FTE = $106,272 per year;
Salary (ES3) = $45,816 x 2.0 FTE = $91,632 per year;
Salary (ES2) = $39,492 x .70 FTE = $27,644 per year;
Benefits = $402,692 x 21.1% (agency standard) = $84,968 per year;
Goods and Svcs = $228,074 per year;
Travel = $1,299 (agency standard) x 7.70 FTE = $10,002 per year;
Equipment = $6,302 (for startup equipment budgeted for each new direct FTE) x 7.70 FTE = $48,525 (FY05 only)

Total costs for this section in the 2003-05 biennium = $774,263 (FY05), ensuing biennium = $1,451,474

3. Data collection – Assumes water quality standards data would not meet quality assurance and quality control review tests proposed in this bill.
Virtually all the data used to update the state water quality standards of non-toxic pollutants was acquired from non-Ecology sources. For example, the temperature criterion included reference to over 500 separate studies, while the bacteria criterion was based on fewer but larger epidemiological studies, most costing in excess of $1,000,000 each. Under the federal Clean Water Act, Ecology is required to look at Washington's water quality standards every 3-years, and make a decision whether to update the standards based on new science and public feedback. The next time that Ecology would likely be doing a rule update would be in 2008. The requirements described in section 4 of the proposed bill state that in order for Ecology to use data (scientific research) for water quality standards development, the department would have to determine that:
(a) Appropriate quality assurance (QA) and quality control (QC) procedures were followed and documented in collecting and analyzing the data;
(b) The samples or analyses were representative of water quality conditions at the time the data was collected;
(c) The data consists of an adequate number of samples based on the nature of the water in question and the parameters.
(d) The methods are valid.

It is assumed that .50 FTE of an Environmental Specialist 2 (ES2) would be needed for 12 months to locate the author or the data used by the author, to determine if the data would meet the requirements of this bill. This work would be scheduled to begin July 1, 2008.
Salary = $39,492 x .50 FTE = $19,746 FY08;
Benefit = $19,746 x 21.1% (agency standard) = $4,166 FY08;
Goods and Svcs = $11,797 FY08;
Travel = $1,299 (agency standard) x .50 FTE = $650 FY08;
Equipment = $6,302 (for startup equipment budgeted for each new direct FTE) x .50 FTE = $3,151 FY08

Personal Services:
Contract a statistician for 12 months to do the required analyses where the author only provided raw data). This work would be scheduled to begin July 1, 2008.
Personal Services Contract = $28,461 FY08 (Cost estimate based on .25 FTE of an Economic Analyst 3 level)

Contract to review the QA/QC plans the authors used to determine whether they would meet this regulation, and possibly, This would also fund some authors to provide the information to Ecology. This work would be scheduled to begin July 1, 2008, and would take 12 months.
Personal Services Contract = $44,833 FY08 (Cost estimate based on .50 FTE of an Environmental Specialist 3 (ES3) level)

Total costs for this section = $112,804 (FY08 only)

[NOTE: If these options were not possible, Ecology would be put in a position to contract out specific studies which could range significantly in costs depending on the specific pollutant. It is assumed that creating our own body of research could

cost on average $750,000 for each rule writing effort, with each effort updating 3 pollutants (temperature, bacteria, and ammonia)]

FTE Detail:

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

Employee Benefits for direct program staff are calculated at the agency average of 21.1% of salaries.

Goods and Services are calculated at the agency average of $4,942 per direct FTE. Standard agency administrative overhead costs are also included along with $75,000 identified for additional postage and hearing costs.

Personal Services Contracts would be required in FY08 for data review ($28,461 for the statistitian and $44,833 for the QA/QC reviewer).

Travel Expenditures are calculated at the agency average rate of $1,299 per direct program FTE.

Equipment Detail: $6,302 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		9.20	4.6	8.1	8.0
A-		478,736	478,736	843,406	825,130
B-		101,013	101,013	177,959	174,102
C-					73,294
E-		327,818	327,818	496,895	468,277
G-		11,951	11,951	20,979	20,654
J-		57,978	57,978		3,151
N-					
P-					
S-					
Total:	$0	$977,496	$977,496	$1,539,239	$1,564,608

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
ES2	39,492		0.7	0.4	0.7	1.0
ES3	45,816		2.5	1.3	2.1	2.0
ES4	53,136		3.0	1.5	2.3	2.0
ES5	58,656		2.0	1.0	2.0	2.0
WMS 1	59,832		1.0	0.5	1.0	1.0
Total FTE's			9.2	4.6	8.1	8.0

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.

As a result of this bill, Ecology would be required to amend rules under section 90.48 RCW, Water Pollution Control Act, for procedural requirements identified in sections 3 through 6 of the bill.