Multiple Agency Fiscal Note Summary

Bill Number: 2246 HB	**Title:** Mercury-containing lights

Estimated Cash Receipts

NONE

Estimated Expenditures

Agency Name	2013-15			2015-17			2017-19		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Department of Ecology	.0	0	3,419	.1	0	18,237	(.1)	0	(13,679)
Total	**0.0**	**$0**	**$3,419**	**0.1**	**$0**	**$18,237**	**(0.1)**	**$0**	**$(13,679)**

Local Gov. Courts *									
Loc School dist-SPI									
Local Gov. Other **	Non-zero but indeterminate cost. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Impact

NONE

Prepared by: Linda Steinmann, OFM	**Phone:** 360-902-0573	**Date Published:** Final 1/23/2014

* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID: 36325

Individual State Agency Fiscal Note

Bill Number: 2246 HB	Title: Mercury-containing lights	Agency: 461-Department of Ecology

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2014	FY 2015	2013-15	2015-17	2017-19
FTE Staff Years	0.0	0.1	0.0	0.1	(0.1)
Account					
Product Stewardship Programs Account-Non-Appropriated 16T-6	(3,420)	6,839	3,419	18,237	(13,679)
Total $	(3,420)	6,839	3,419	18,237	(13,679)

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:	Jacob Lipson	Phone: 360-786-7196	Date: 01/15/2014
Agency Preparation:	My-Hanh Mai	Phone: 360-407-6996	Date: 01/23/2014
Agency Approval:	Erik Fairchild	Phone: 360-407-7005	Date: 01/23/2014
OFM Review:	Linda Steinmann	Phone: 360-902-0573	Date: 01/23/2014

Request # 14-022-4

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.

Under current law, RCW 70.275 requires producers of mercury containing lights to fully fund a product stewardship program for the safe collection and disposal of mercury containing lights. The Department of Ecology (Ecology) is required to contract with a product stewardship organization to implement the program. A one-time $10,000 fee was charged in FY12 and paid by producers to initially set up the contracted program. In addition, a $5,000 annual fee was charged to producers in FY11, FY13, and FY14 to fund Ecology's administrative and enforcement costs.

This bill would eliminate Ecology's contract for a product stewardship organization. Producers of mercury-containing lights would not be required to fully fund and participate in a state contracted product stewardship program approved by Ecology.

Section 2 would amend RCW 70.275.020 to add a definition of an Environmental Handling Charge (EHC).

Section 3 would eliminate subsections 1, 2, and 3 of RCW 70.275.030 requiring producers to fully fund and participate in a state contracted stewardship organization. It would require a stewardship organization to fully fund the program with revenues from the EHC. It would also require producers to participate in the program operated by the stewardship organization.

Section 4 would change the program plan submittal date from January 1 to June 1 of the year prior to implementation. It would require the stewardship organization to include an independent financial audit in their annual report submittal to Ecology starting in June 1, 2015. For purposes of this fiscal note, Ecology assumes the intent of the bill is for the first annual report to be due on June 1, 2016, in order to fully capture the prior calendar year's data. Ecology has communicated this assumption with the bill writer.

Section 5 would eliminate subsections 1, 2, and 3 of RCW 70.275.050 requiring producers to fully fund and pay Ecology $15,000 to fund a state contracted stewardship organization. It would further eliminate the requirement for producers participating in an independent plan to fully fund the program and pay Ecology a $5,000 annual fee for administrative and enforcement costs. Instead, Ecology would be required to review, adjust if necessary, and approve the stewardship organization's recommended EHC as part of its program plan review at the time of the program plan review, or at any time the stewardship organization request a review. Beginning March 1, 2015, the stewardship organization would pay Ecology a $5,000 annual fee for each participating producer to cover Ecology's administrative and enforcement costs.

Section 6 would grant producers antitrust immunity and require Ecology to actively supervise the conduct of the stewardship organization.

Section 7 would invoke a sunset of the mercury-containing lights product stewardship program established under Chapter 70.275 RCW on July 1, 2025.

Section 11 would establish an emergency clause that would make the bill, with the exception of section 10, take effect immediately.

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.

Under current law, Ecology invoices a $5,000 annual fee to each participating producer to cover Ecology's administrative and enforcement costs. Under this bill, the stewardship organization would pay Ecology $5,000 for each participating producer to cover Ecology's administrative and enforcement costs. The net effect is zero impact on cash receipts to Ecology. In January 2014, Ecology billed participating producers $5,000 to cover Ecology's administrative and enforcement costs, and expects the producers to remit the funds in March 2014. Under this bill, the stewardship organization would remit $5,000 per participating producer to Ecology starting in March 1, 2015, and annually thereafter. Based on these assumptions, Ecology doesn't expect any time gap in revenue collections.

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.

Section 4(5) would require the stewardship organization to include an independent financial audit with their annual report submittal to Ecology. It must include the EHC amount and revenue generated; identification of confidential information; and the costs of the program, including program operations, communications, administration, and unallocated reserve funds. Ecology assumes the added responsibility of reviewing the financial audit report would require 0.02 FTE of an Environmental Specialist 5 (ES5) starting in June 1, 2016, or FY16, and annually thereafter to make sure all required paperwork is included, and the reported information is thoroughly analyzed and verified for compliance with the law.

Section 5 would eliminate subsections 1, 2, and 3 of RCW 70.275.050 requiring producers to fully fund and pay Ecology $15,000 to fund a state contracted stewardship organization. It would further eliminate the requirement for producers to participate in an independent plan and fund the program, and pay Ecology a $5,000 annual fee for administrative and enforcement costs. The elimination of a state contracted program would result in a savings for Ecology, since it would no longer have to manage the product stewardship contract, or bill and track the fees collected from participating producers. Consistent with the estimated costs to carry out these ongoing tasks (5543 SSBPL) and assuming savings would start in May 2014, Ecology would save -0.03 FTE of an ES5 in FY14, and -0.20 FTE in FY15 and thereafter.

This bill would add two new subsections (2) and (4) to Section 5 requiring Ecology to review, adjust if necessary, and approve the stewardship organization's recommended EHC as part of its program plan review by August 1, 2014, and at any time the stewardship organization submits an adjusted EHC to the department for review and approval. Ecology assumes it would require more time in the first year, starting in July 1, 2014, for review and consultation with the stewardship organization, producers, and retailers as necessary in order to approve the stewardship organization's program plan and recommended EHC. Ecology anticipates ongoing questions, EHC update requests, and the first program plan update in January 1, 2017. Ecology assumes the following efforts of an ES5 for this ongoing effort would be required: 0.10 FTE (FY15), 0.08 FTE (FY16), 0.08 FTE (FY17), and 0.06 FTE in FY18 and FY19.

Section 6(2) would require Ecology to actively supervise the conduct of the stewardship organization, producers, and other entities in determination and implementation of the EHC. Ecology would have to ensure the sales of mercury-containing light bulbs are in compliance with the law; respond to complaints; make quarterly visits to facilities; and provide guidance, technical assistance, and supervision to the affected parties. Ecology assumes more supervision would be necessary at the start of the program and decrease over time. To fulfill Ecology's role under this section, Ecology would require the following efforts of an ES5: 0.16 FTE (FY15), 0.24 FTE (FY16), 0.12 FTE (FY17), 0.08 FTE (FY18), and 0.04 FTE (FY19).

Section 7 would require the Joint Legislative Audit and Review Committee (JLARC) to provide an assessment of the program one year before the sunset date of July 1, 2025. Ecology assumes an insignificant amount of effort would be required to work with JLARC on program review data requirements. The stewardship organization would primarily provide JLARC with the data necessary for the program assessment.

Notes on costs by object:

Salary estimates are current actual rates at step H, the agency average for new hires.
Benefits are the agency average of 33.0% of salaries.
Goods and Services are the agency average of $5,709 per direct program FTE.
Travel expenditures are calculated at the agency average rate of $1,394 per direct program FTE.
Equipment is the agency average of $1,131 per direct program FTE.
Agency Administrative Overhead is calculated at the federally approved agency indirect rate of 32.25% 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 Specialist 2.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2014	FY 2015	2013-15	2015-17	2017-19
FTE Staff Years	0.0	0.1	0.0	0.1	(0.1)
A-Salaries and Wages	(1,804)	3,607	1,803	9,619	(7,215)
B-Employee Benefits	(595)	1,190	595	3,175	(2,381)
C-Personal Service Contracts					
E-Goods and Services	(171)	343	172	913	(685)
G-Travel	(42)	84	42	223	(168)
J-Capital Outlays	(34)	68	34	181	(135)
N-Grants, Benefits and Client Services					
P-Debt Service					
S-Interagency Reimbursements					
9-Agency Administrative Overhead	(774)	1,547	773	4,126	(3,095)
Total:	$(3,420)	$6,839	$3,419	$18,237	$(13,679)

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 2014	FY 2015	2013-15	2015-17	2017-19
ENVIRONMENTAL SPEC. 5	60,120	0.0	0.1	0.0	0.1	(0.1)
FISCAL ANALYST 2			0.0	0.0	0.0	0.0
IT SPECIALIST 2					0.0	
Total FTE's	60,120	0.0	0.1	0.0	0.1	(0.1)

Part IV: Capital Budget Impact

NONE

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.

The bill does not require rulemaking. However, the current rule which was enacted in December 2012 would need to be updated to be consistent with this bill amendment. The timing in this bill would require program implementation well before any rule update could be completed; therefore, a rule update is not critical to program startup. Ecology is planning to update the rules as part of other planned rule updates; therefore, this would not be an additional workload to Ecology.

LOCAL GOVERNMENT FISCAL NOTE

Department of Community, Trade and Economic Development

Bill Number: 2246 HB	**Title:** Mercury-containing lights

Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- [X] Cities: Reduction in expenditures relating to the collection and disposal of mercury-containing lights. Potential future increases in expenditures if the public education campaign increases disposal rates.
- [X] Counties: Same as above
- [ ] Special Districts:
- [ ] Specific jurisdictions only:
- [ ] Variance occurs due to:

Part II: Estimates

- [ ] No fiscal impacts.
- [ ] Expenditures represent one-time costs:
- [X] Legislation provides local option: Local governments are not required to collect mercury containing lights for disposal.
- [X] Key variables cannot be estimated with certainty at this time: Rate of local participation; costs associated with collection, storage and disposal; increase in disposal rates as a result of public education campaign.

Estimated revenue impacts to:

Indeterminate Impact

Estimated expenditure impacts to:

Indeterminate Impact

Part III: Preparation and Approval

Fiscal Note Analyst: Allan Johnson	Phone: 360-725-5033	Date: 01/23/2014
Leg. Committee Contact: Jacob Lipson	Phone: 360-786-7196	Date: 01/15/2014
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 01/23/2014
OFM Review: Linda Steinmann	Phone: 360-902-0573	Date: 01/23/2014

Part IV: Analysis

A. SUMMARY OF BILL

Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.

This legislation repeals provisions in RCW 70.725 that would have required producers of mercury containing lights (MCLs) to pay fees that would cover the cost of collection and disposal of those lights. This bill would create an environmental handling charge added to the sales price of MCLs that would fund a product stewardship organization and provide packaging materials, collection and disposal service to local governments collecting MCLs. This legislation would also create a public education campaign to boost disposal and collection rates.

Section 1 states that additional flexibility is needed to provide sustainable funding for the product stewardship program.

Section 2 amends definitions for "covered entities," "producer," "product stewardship program" and "environmental handling charge." The definition of product stewardship program stipulates that the program will arrange for the collection, transportation, recycling, processing and final disposition of MCLs.

Section 3 repeals the existing provisions for participation in the product stewardship program. New provisions require any producer of mercury-containing lights to participate in the product stewardship program. In addition, this section requires the establishment of a stewardship organization that will be funded by an environmental handling charge that is included in the cost of any mercury-containing light. This section requires the product stewardship organization to pay the costs of packaging and shipping materials.

Collection costs related to receiving, accumulating, storing and packaging mercury-containing lights will not be reimbursed by the product stewardship program. The program must arrange for a collection service from sites that collect mercury-containing lights but that entities, including local governments, are not required to provide collection for mercury-containing lights.

Section 4 requires that a proposed product stewardship plan be provided to the Department of Ecology for approval prior to the plan's implementation. New provisions detail how this plan will provide information to the public about the disposal program and collection opportunities. This section also requires an annual report describing the results of the stewardship plan's implementation with an independent financial audit.

Section 5 requires stewardship organizations to recommend an environmental handling charge that will be added to the price of mercury-containing lights to provide the revenue needed to cover all administrative and operation costs contained in the stewardship plan.

Any charge approved by the Department of Ecology must be added to the cost of mercury-containing lights to fund implementation of the stewardship program. Finally, this section adds an annual fee which each stewardship organization must pay to the Department of Ecology to cover administrative and enforcement costs.

Section 8 amends the sunset provisions for the mercury containing lights disposal program to include these amendments. These provisions will be repealed along with the existing portions of RCW 70.275 on July 1, 2026.

Section 10 would reenact the requirements for all residents, government, commercial, industrial, and retail facilities and office buildings must recycle their end-of-life mercury-containing lights if the remaining portion of the law is repealed through the sunset provisions on July 1, 2026. It would also restrict the placement of these lights in waste or mixed recyclable containers.

Section 11 would enact all portions of this legislation, except Section 10, immediately.

BACKGROUND:
Local governments are not required to collect or dispose of mercury-containing lights, but many do. The existing statute establishes fees to cover costs associated with the collection, storage and disposal of MCLs. However, this legislation has not been implemented due to unresolved legal challenge. It is assumed for the purpose of this Local Government Fiscal Note that the currently authorized program will not be implemented.

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.

This local-option bill would have indeterminate expenditure impacts on jurisdictions that choose to participate. Under the terms of this legislation, the stewardship program would provide packaging materials, collection and disposal to any local government that collects mercury-containing lights. Local governments that currently accept mercury-containing lights would experience a reduction in costs if this legislation is approved.

The exact amount of cost reductions resulting from enactment and implementation of this bill is not known. However, estimates on the magnitude of these cost reductions range from $208,000 to $758,000 statewide.

The total cost savings per jurisdiction would depend upon collection volumes. King County Solid Waste estimates that total costs in 2012 that would be covered through this legislation at more than $70,000; Kitsap County estimated reduced costs at $11,000 to $12,000 based upon their 2013 collection volume. Other sources estimate cost savings by weight.

CALCULATIONS:
The estimate of statewide fiscal impact of cost reductions is based upon the following assumptions:
-- The Department of Ecology estimates that approximately 2.5 million lights are recycled annually.
-- Local governments are estimated to collect roughly 50 percent of recycled lights based upon volumes in Snohomish County and Kitsap counties, resulting in 1.25 million lights collected by jurisdictions each year.
-- Weights are estimated at .45 to.625 pounds per light based upon information from Snohomish County, creating a cumulative amount of MCLs handled by local governments ranging between 562,000 to 781,000 pounds.
-- Costs that would be covered by the provisions of this legislation are estimated at approximately $0.37 to $0.97 per pound. This would result in cumulative reduced expenditures of somewhere between $208,000 and $758,000 annually statewide.

POTENTIAL FUTURE IMPACTS:
If the provisions of the stewardship plan that encourage the proper disposal of mercury-containing lights are successful, local government collection sites could result in greater disposal rates at collection sites and increased local costs. The magnitude of this potential increase is indeterminate. An increase in disposal rates could result in additional costs to jurisdictions for labor and storage costs. These costs are estimated at $.27 to $.33 per pound of mercury-containing lights by some jurisdictions. However, it is possible that some local governments could absorb increased disposal rates without requiring significant additional expenditures.

The bill stipulates that local governments are not required to collect and dispose of MCLs and could rely on outside entities to engage in collection and disposal. Jurisdictions currently providing collection and disposal services could terminate their internal efforts in order to eliminate expenditures. The magnitude of potential cost reductions is indeterminate due to the uncertainty in staffing reductions or other cos savings that would result from ending collection and disposal of MCLs by the local government.

C. SUMMARY OF REVENUE IMPACTS

Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.

If this legislation is enacted, local governments that currently collect mercury-containing lights would see indeterminate reductions to some costs or receive payments to cover specific expenses related to the collection of these lights. These impacts are collectively discussed as reduced expenditures for clarity (see previous section).

It is possible that local government revenue could increase if jurisdictions contract with stewardship or other outside organizations to conduct collection and disposal of MCLs and are reimbursed for these expenses. The impact of this proposal would vary by jurisdiction based on term of contracts which would be developed in the future. The number of local jurisdictions who would contract with stewardship or other outside organizations is unknown. Therefore, the revenue impact of this proposal cannot be determined.

SOURCES:
Washington State Department of Ecology (WDOE)
WDOE Report, “Recommendations for a Mercury Containing Light Recycling Program in Washington State”. 2009
King County Solid Waste Division
Kitsap County Household Hazardous Waste Program
Washington State Department of Ecology Mercury Containing Lights Product Stewardship Program Website
http://www.ecy.wa.gov/programs/swfa/mercurylights/
The Standard Plan for the Washington Mercury-Containing Lights Product Stewardship Program
http://www.ecy.wa.gov/programs/swfa/mercurylights/pdf/FinalStandardPlan.pdf
Northwest Product Stewardship Council
http://productstewardship.net/products/mercury/activities-wa
Local Government Fiscal Note, SB 5543 (2009)
Local Government Fiscal Note SB 5658 (2013)