

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5323 S SB PL	<b>Title:</b> Plastic bags
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## Estimated Cash Receipts

Agency Name	2019-21		2021-23		2023-25	
	GF- State	Total	GF- State	Total	GF- State	Total
Department of Revenue	3,794,000	3,800,000	7,388,000	7,400,000	7,188,000	7,200,000
<b>Total \$</b>	<b>3,794,000</b>	<b>3,800,000</b>	<b>7,388,000</b>	<b>7,400,000</b>	<b>7,188,000</b>	<b>7,200,000</b>

Agency Name	2019-21		2021-23		2023-25	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other		1,485,001		3,168,000		3,168,000
Local Gov. Other	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.					
Local Gov. Total		1,485,001		3,168,000		3,168,000

## Estimated Operating Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Department of Revenue	1.4	295,900	295,900	.3	38,800	38,800	.2	24,100	24,100
Department of Ecology	.5	0	117,054	.7	0	150,963	.3	0	54,969
Environmental and Land Use Hearings Office	.0	0	0	.0	0	0	.0	0	0
<b>Total \$</b>	<b>1.9</b>	<b>295,900</b>	<b>412,954</b>	<b>1.0</b>	<b>38,800</b>	<b>189,763</b>	<b>0.5</b>	<b>24,100</b>	<b>79,069</b>

Agency Name	2019-21			2021-23			2023-25		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

## Estimated Capital Budget Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Department of Ecology	.0	0	0	.0	0	0	.0	0	0
Environmental and Land Use Hearings Office	.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) 902-0573	<b>Date Published:</b> Final 3/16/2020
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# Department of Revenue Fiscal Note

<b>Bill Number:</b> 5323 S SB PL	<b>Title:</b> Plastic bags	<b>Agency:</b> 140-Department of Revenue
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

Account	FY 2020	FY 2021	2019-21	2021-23	2023-25
GF-STATE-State 01 - Taxes 01 - Retail Sales Tax		3,794,000	3,794,000	7,388,000	7,188,000
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax		6,000	6,000	12,000	12,000
<b>Total \$</b>		3,800,000	3,800,000	7,400,000	7,200,000

### Estimated Expenditures from:

Account	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	2.0	0.8	1.4	0.3	0.2
GF-STATE-State 001-1	234,600	61,300	295,900	38,800	24,100
<b>Total \$</b>	234,600	61,300	295,900	38,800	24,100

### 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:	Phone:	Date: 03/11/2020
Agency Preparation: Diana Tibbetts	Phone: 360-534-1520	Date: 03/13/2020
Agency Approval: Don Gutmann	Phone: 360-534-1510	Date: 03/13/2020
OFM Review: Ramona Nabors	Phone: (360) 902-0547	Date: 03/13/2020

Request # 5323-4-1

## 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.*

Note: This fiscal note reflects language in SSB 5323 as passed in the 2020 Legislative Session.

This fiscal note only addresses those sections of the bill that impact the Department of Revenue (Department).

In order to reduce waste, litter, and marine pollution, conserve resources, and protect fish and wildlife, this bill:

- Prohibits the use of single-use plastic carryout bags.
- Requires a pass-through charge on certain paper carryout bags and other reusable bags.
- Requires the use of recycled content bags.
- Encourages retail establishments to supply and use reusable and recycled content paper carryout bags.

Retail establishments must collect a pass-through charge of eight cents for every recycled content paper carryout bag or reusable carryout bag made from film plastic that they provide. The pass-through charge is a taxable retail sale which must be shown on receipts provided to customers. The pass-through charge is not required to be collected:

- If as of January 1, 2019, local regulations allow retail establishments to provide restricted bags from existing inventory until one year after the effective date of the bill.
- From people who have a voucher or electronic benefits card issued under one of the following programs:
  - Women, infants, and children (WIC)
  - Temporary assistance for needy families (TANF)
  - Federal supplemental nutrition assistance program (SNAP, also known as basic food)
  - Washington state food assistance program (FAP)

This bill preempts local plastic bag ordinances, but allows localities to keep the fee at 10 cents.

The bill takes effect 90 days after final adjournment of the session in which it is enacted.

The bill as passed by the legislature makes the following changes that effect the Department:

- Increases the amount of the pass-through charge for reusable film plastic bags from 8 cents to 12 cents, beginning January 1, 2026.
- Provides a business and occupation (B&O) tax deduction for the pass-through charges for reusable carryout bags and recycled content paper carryout bags provided by retail establishments
- Exempts the B&O tax deduction for pass-through charges from tax preference performance statement requirements and expiration dates.
- Amends the preemption provisions to provide that (1) carryout bag ordinances not enacted as of April 1, 2020, are preempted; (2) carryout bag ordinances enacted as of April 1, 2020, are preempted effective January 1, 2021; and (3) local governments that have established a pass-through charge of ten cents are not preempted with respect to the amount of the pass-through charge until January 1, 2026.

### 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.*

#### ASSUMPTIONS

- All Washington retailers will collect a pass-through charge of 8-cents per bag effective June 9, 2020.
- Fiscal Year 2021 reflects 12 months of cash collections due to the June 9, 2020, effective date.
- Washington residents use bags at the same per capita rate as consumers in the rest of the country.

- Washington residents in cities currently banning plastic bags use them at a rate of 40 percent of residents in cities without bans.
- An additional two percent of the Washington state population will reside in cities that currently ban plastic bags each year.
- The Washington population will grow at the same rate as projected by the Office of Financial Management.
- The United States population will grow at the same rate as projected by the U.S. Census Bureau.
- There will be no B&O tax impact due to the B&O tax deduction.
- The 12-cent per bag pass-through charge is beyond the scope of this fiscal note.

#### DATA SOURCES

- U.S. Census Bureau, National Population Projections Datasets, 2017
- Washington State Office of Financial Management, State Population Forecast, November 2019
- BagLaws.com
- Municipal Research and Services Center, mrsc.org

#### REVENUE ESTIMATES

This bill increases state revenues by an estimated \$3.8 million in the 12 months of impacted collections in Fiscal Year 2021. This bill also increases local revenues by an estimated \$1.5 million in the 11 months of impacted distributions in Fiscal Year 2021, and by \$1.6 million in Fiscal Year 2022, the first full year of impacted distributions.

#### TOTAL REVENUE IMPACT:

##### State Government (cash basis, \$000):

FY 2020 -	\$ 0
FY 2021 -	\$ 3,800
FY 2022 -	\$ 3,700
FY 2023 -	\$ 3,700
FY 2024 -	\$ 3,600
FY 2025 -	\$ 3,600

##### Local Government, if applicable (cash basis, \$000):

FY 2020 -	\$ 0
FY 2021 -	\$ 1,500
FY 2022 -	\$ 1,600
FY 2023 -	\$ 1,600
FY 2024 -	\$ 1,600
FY 2025 -	\$ 1,600

## 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.*

#### ASSUMPTIONS:

- This bill affects 50,000 taxpayers.
- Taxpayers will report pass through charges under their predominant activity line code.
- Products exempt from sales tax are still subject to the pass through charge, if a chargeable bag is used.
- Pass through charges will not apply to food banks or other donation centers, or non-business individuals.
- Due to the effective date, all returns will have split rates and deductions for Fiscal Year 2020.

#### FIRST YEAR COSTS:

The Department will incur total costs of \$234,600 in Fiscal Year 2020. These costs include:

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Labor Costs - Time and effort equates to 2.0 FTEs.

- Create a special notice and update web content.
- Respond to additional telephone questions, email and written correspondence.
- Resolve errors on tax returns and complete amended returns.
- Administer legislative change and perform testing on changes to the information systems.

Object Costs - \$57,400.

- Contracts to perform programming and configuration changes to information systems.
- Printing and postage for special notices and updates to paper tax return filers.

**SECOND YEAR COSTS:**

The Department will incur total costs of \$61,300 in Fiscal Year 2021. These costs include:

Labor Costs - Time and effort equates to 0.8 FTEs.

- Respond to additional telephone questions, email and written correspondence.
- Conduct account examinations and assist taxpayers with reporting.

**ONGOING COSTS:**

Ongoing costs for the 2021-23 Biennium equal \$38,800 and include similar activities described in the second year costs.

Time and effort equates to 0.25 FTEs.

**Part III: Expenditure Detail**

**III. A - Expenditures by Object Or Purpose**

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	2.0	0.8	1.4	0.3	0.2
A-Salaries and Wages	108,400	39,400	147,800	25,200	15,800
B-Employee Benefits	32,600	11,800	44,400	7,700	4,800
C-Professional Service Contracts	6,600		6,600		
E-Goods and Other Services	73,900	8,400	82,300	4,900	2,900
J-Capital Outlays	13,100	1,700	14,800	1,000	600
<b>Total \$</b>	\$234,600	\$61,300	\$295,900	\$38,800	\$24,100

**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 2020	FY 2021	2019-21	2021-23	2023-25
EXCISE TAX EX 2	52,536	0.2	0.2	0.2	0.2	0.2
EXCISE TAX EX 3	57,948	0.1	0.1	0.1		
MGMT ANALYST4	68,892	0.3		0.2		
RECORDS MGMT SUPV	65,592	0.1		0.1		
TAX INFO SPEC 1	42,132	0.8	0.4	0.6	0.1	
TAX INFO SPEC 4	62,460	0.5	0.1	0.3		
<b>Total FTEs</b>		2.0	0.8	1.4	0.3	0.2

**III. C - Expenditures By Program (optional)**

NONE

**Part IV: Capital Budget Impact**

NONE

None.

**Part V: New Rule Making Required**

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5323 S SB PL	<b>Title:</b> Plastic bags	<b>Agency:</b> 461-Department of Ecology
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.0	1.0	0.5	0.7	0.3
<b>Account</b>					
Waste Reduction/Recycling/Litter Control-State 044-1	0	117,054	117,054	150,963	54,969
<b>Total \$</b>	0	117,054	117,054	150,963	54,969

### 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:	Phone:	Date: 03/11/2020
Agency Preparation: My-Hanh Mai	Phone: 360-407-6996	Date: 03/12/2020
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 03/12/2020
OFM Review: Lisa Borkowski	Phone: (360) 902-0573	Date: 03/12/2020



## 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.*

Compared to 5323-S.E AMH CHAP H5413.1, 5323 SSB.PL has no substantive changes. This is the PL version of the striking amendment that passed both houses on final passage.

This bill relates to reducing pollution from plastic bags by establishing minimum state standards for the use of bags at retail establishments. Single-use plastic carryout bags are currently banned in 37 local jurisdictions in Washington State.

Section 3 would prohibit a retail establishment from providing a customer, or a person at an event, a single-use plastic carryout bag, or a paper carryout bag or reusable carryout bag made of film plastic that does not meet recycled content requirements beginning January 1, 2021. A retail establishment would be banned from using or providing certain polyethylene or other non-compostable plastic bags. A recycled content paper carryout bag would be required to contain a minimum of forty percent postconsumer recycled materials and if made of film plastic, would be required to have a minimum thickness of no less than 2.25 mils until December 31, 2025, and no less than 4 mils beginning January 1, 2026, and a minimum of twenty percent postconsumer recycled content until July 1, 2022, and forty percent afterward.

A retail establishment may provide a reusable or a recycled content carryout bag, at the point of sale for a charge of eight cents for every bag it provides. Beginning January 1, 2026, retail establishments would be required to increase the pass-through charge for reusable carryout bags made of film plastic. A retail establishment must collect and retain all revenue from pass-through charges. The pass-through charge would be a taxable retail sale.

A retail establishment may provide a bag restricted under this bill from existing inventory until one year after the bill's effective date. Upon request by Ecology, a retail establishment must provide proof that the bags were acquired prior to the effective date of this section.

Section 5 would require Ecology to prioritize the expedited processing of applications for permits related to the expansion or reconfiguration of an existing pulp and paper mill for the purpose of manufacturing paper bags or raw materials used to manufacture paper bags. Under current law, Ecology prioritizes applications for permits for construction, new or modification, related projects. The facilities under Ecology's jurisdiction have current permits. Therefore, this would not create additional fiscal impact to Ecology.

Ecology would be required to develop a forum to receive complaints that allege violations. Ecology, in collaboration with the local governments, would be required to provide education and outreach to inform retail establishments, consumers, and other interested individuals about the requirements of this chapter. Ecology would be authorized to impose penalties of up to \$250 per day for violations of this chapter. In addition, Ecology or local governments would be required to work with retail establishments, retail associations, unions, and other interested organizations to create educational materials regarding the benefits of reusable bags by October 1, 2020.

Ecology would be authorized to adopt rules as necessary to implement, administer, and enforce this chapter. Section 5(2) would require that enforcement of this chapter must be based primarily upon complaints filed with the department. In consultation with the Attorney General's Office and the agency Rules and Accountability unit,

Ecology assumes Ecology could implement, administer, and enforce this chapter without rulemaking because the law is specific enough that Ecology could implement directly from the bill, and key terms of the bill are sufficiently clear to put retail establishments on notice of what would be or not be allowed. Therefore, no rulemaking is assumed in this fiscal note.

Section 5(7) would provide that this act is null and void if funding is not provided for education and outreach activities required under this section from the Waste Reduction, Recycling, and Litter Control Account (WRRLCA) by July 1, 2020.

Section 6 would restrict a city, town, county, or municipal corporation from enacting a local carryout bag ordinance until January 1, 2021, if the ordinance was not enacted as of April 1, 2020.

Section 7 would require Commerce, in consultation with Ecology to submit a report to the Legislature by December 1, 2024, including an assessment of the effectiveness of the pass-through charge for reducing the total volume of bags purchased and encouraging reusable bags. The report would also include an assessment of the sufficiency of the amount of the pass-through charge relative to the cost of the authorized bags to retail establishments and an assessment of the pricing and availability of various types of carryout bags, and recommendations for revisions to this act.

For purposes of conducting the assessment, Ecology and Commerce would be authorized to request retail establishments and bag distributors to furnish information regarding the cost of various types of paper and plastic carryout bags. This provision would expire July 1, 2027.

## **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.*

Section 5 would authorize Ecology to assess a civil penalty of up to two hundred fifty dollars per violation per day. Ecology assumes that if retail establishments are out of compliance, we would send a written warning letter to them to bring them into compliance. It is assumed that it is the intent of the bill to provide for penalties in order to ensure compliance. Ecology assumes no revenue associated with infractions.

## **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.*

The expenditure impact to Ecology under this bill is estimated to be greater than \$50,000 in Fiscal Year (FY) 2021 to FY 2023, and less than \$50,000 in FY 2024 and FY 2025, to implement the requirements of sections 5 and 7.

Section 5 would require Ecology to develop a forum to receive complaints that allege violations. Ecology or local governments would be required to work with retail establishments, retail associations, unions, and other interested organizations to create educational materials regarding the benefits of reusable bags by October 1, 2020. Ecology, in collaboration with the local governments, would be required to provide education and outreach to inform retail establishments, consumers, and other interested individuals about the requirements of this chapter.

Ecology assumes it would collaborate with local governments to create educational materials regarding the

benefits of reusable bags, in addition to conducting education and outreach to retail establishments, retail associations, and other interested organizations about the ban. Ecology also assumes efforts associated with developing education and outreach materials, and conducting education and outreach and compliance enforcement would begin in FY21 and be completed in FY24.

Ecology, in collaboration with local governments, would develop information to conduct outreach and education to inform retail establishments, consumers, and other interested individuals about the ban, in addition to a forum to receive complaints that allege violations. Ecology assumes these outreach materials would be developed with culturally appropriate materials and in multiple languages. Ecology assumes the forum would be publicly available and complaints filed through the forum would be shared with local governments for purposes of carrying out education and outreach to retail establishments.

Ecology estimates 0.20 FTE Community Outreach & Environmental Education Specialist 3 (COEES3) would be required in FY21 to develop education and outreach materials and a website.

Ecology estimates 0.04 FTE Communications Consultant 5 would be required in FY21 to support the development of education and outreach materials and website.

Ecology estimates 0.10 FTE Communications Consultant 3 would be required in FY21 to develop a complaint forum website in FY21.

Ecology would use in-house translation for Chinese, Korean, Spanish, and Vietnamese at a cost of \$2,700 in FY21. Ecology assumes translation of outreach documents into other languages would be contracted out through the state's Department of Enterprise master contract at a cost of \$100 per document. The City of Seattle plastic bag ban document is offered in 18 languages (including English). Ecology would contract out for translation of 13 additional languages. For the purposes of this estimate, Ecology assumes three documents would be translated into 13 languages at a cost of \$3,900 in FY21.

Ongoing education and outreach to small businesses, consumers, and retail associations would require 0.4 FTE of a COEES 3 in FY22, 0.3 FTE in FY23, and 0.2 FTE per year in FY24.

Implementation, technical assistance, complaint follow-up, and compliance enforcement would require 0.5 FTE of an ES4 beginning in FY 21, 0.25 FTE per year FY22 and FY23, and 0.15 FTE in FY24.

Section 7 would require Commerce, in consultation with Ecology, to submit an assessment report to the Legislature by December 1, 2024. In coordination with Commerce, the assumption is that Ecology would reach out to retail establishments and bag distributors to gather the necessary information about the cost of various types of paper and plastic carryout bags (section 7(1)(b)), and to help draft and review the assessment report to the Legislature in FY24 and FY25.

Ecology estimates this one-time effort would require 0.04 FTE Environmental Specialist 4 (ES4) in FY24, and 0.04 FTE ES4 in FY25.

**SUMMARY:** The expenditure impact to Ecology under this bill is as follows:

FY 2021: \$117,054 and 0.97 FTE; FY 2022: \$81,413 and 0.75 FTE; FY 2023: \$69,550 and 0.63 FTE; FY 2024: \$49,536 and 0.45 FTE; FY 2025: \$5,433 and 0.05 FTE.

Notes on costs by object:

Salary estimates are current biennium actual rates at Step L.

Benefits are the agency average of 36.6% of salaries.

Contracts includes \$3,900 in FY21 for language translation of the education and outreach documents.

Goods and Services are the agency average of \$5,724 per direct program FTE. Also included is \$2,700 in FY21 for language translation of the education and outreach documents.

Travel is the agency average of \$2,787 per direct program FTE.

Equipment is the agency average of \$1,637 per direct program FTE.

Agency Administrative Overhead is calculated at the federally approved agency indirect rate of 29.7% 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 2020	FY 2021	2019-21	2021-23	2023-25
044-1	Waste Reduction/Recycling /Litter Control	State	0	117,054	117,054	150,963	54,969
<b>Total \$</b>			0	117,054	117,054	150,963	54,969

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

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years		1.0	0.5	0.7	0.3
A-Salaries and Wages		57,533	57,533	78,334	28,564
B-Employee Benefits		21,057	21,057	28,671	10,454
C-Professional Service Contracts		3,900	3,900		
E-Goods and Other Services		7,508	7,508	6,869	2,462
G-Travel		2,341	2,341	3,345	1,198
J-Capital Outlays		1,375	1,375	1,964	703
9-Agency Administrative Overhead		23,340	23,340	31,780	11,588
<b>Total \$</b>	0	117,054	117,054	150,963	54,969

**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 2020	FY 2021	2019-21	2021-23	2023-25
COM OUTREACH & ENV ED SP 3	61,219		0.2	0.1	0.4	0.1
COMM CONSULTANT 3	64,334		0.1	0.1		
COMM CONSULTANT 5	84,394		0.0	0.0		
ENVIRONMENTAL SPEC 4	70,959		0.5	0.3	0.3	0.1
FISCAL ANALYST 2			0.1	0.1	0.1	0.0
IT APP DEVELOP-JOURNEY			0.0	0.0	0.0	0.0
<b>Total FTEs</b>			1.0	0.5	0.7	0.3

**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**

*Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods*

NONE

**Part V: New Rule Making Required**

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5323 S SB PL	<b>Title:</b> Plastic bags	<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:	Phone:	Date: 03/11/2020
Agency Preparation: Kay Brown	Phone: (360) 664-9160	Date: 03/12/2020
Agency Approval: Nina Carter	Phone: 360 664-9171	Date: 03/12/2020
OFM Review: Lisa Borkowski	Phone: (360) 902-0573	Date: 03/12/2020

## 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.*

Starting January 1, 2021, this bill restricts the provision of single-use plastic carryout bags by retail establishments, and requires a pass-through charge on recycled content paper carryout bags and reusable carryout bags. It also requires the use of recycled content bags.

In Section 5, Ecology is directed until June 1, 2021, to prioritize the expedited processing of applications for permit related to the expansion or reconfiguring of an existing pulp and paper mill. This section also provides enforcement authority to implement, administer and enforce the restrictions on carryout and in-store bags. Ecology's enforcement must be primarily complaint driven. Ecology is directed to educate retail establishments.

Section 5 also provides that a violation of this chapter is subject to a civil penalty of up to two hundred fifty dollars. Each calendar day of operation or activity in violation of this chapter comprises a new violation. Penalties issued under this section are appealable to the pollution control hearings board.

Section 10 and Section 11 amends RCW 43.21B.110 (both versions) to provide jurisdiction to the PCHB over appeals of civil penalties imposed pursuant to this Bill.

Ecology assumes the intent of this bill is to provide for penalties to ensure compliance. Therefore, Ecology does not expect penalties to be issued. Based on these assumptions, the PCHB concludes that it can handle any appeals generated by this bill within its existing workload without additional staffing.

Permits for pulp and paper mills issued by Ecology are appealed to the PCHB. Ecology is assuming that the requirement that it expedite processing of applications for permits related to the expansion/reconfiguring of pulp and paper mills will not affect the number of permits it issues for mills. This is because Ecology already expedites these permits. If the number of permits issued is not expected to increase, the Board would not experience an increase in appeals. Therefore, based on these assumptions, there should be no increase to workload at the PCHB.

### 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.*

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

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

NONE

**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*

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**

*Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods*

NONE

**Part V: New Rule Making Required**



# LOCAL GOVERNMENT FISCAL NOTE

Revised

Department of Commerce

<b>Bill Number:</b> 5323 S SB PL	<b>Title:</b> Plastic bags
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## Part I: Jurisdiction

Location, type or status of political subdivision defines range of fiscal impacts.

### Legislation Impacts:

- Cities: Increase in revenue; possible enforcement action against retailers not in compliance with the the plastic bag ban.
- Counties: Same as above.
- Special Districts: Increase in revenue.
- Specific jurisdictions only:
- Variance occurs due to:

## Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time: Number of plastic bag violations that would occur.

### Estimated revenue impacts to:

Jurisdiction	FY 2020	FY 2021	2019-21	2021-23	2023-25
City		486,189	486,189	1,037,204	1,037,204
County		505,346	505,346	1,078,070	1,078,070
Special District		493,466	493,466	1,052,726	1,052,726
<b>TOTAL \$</b>		1,485,001	1,485,001	3,168,000	3,168,000
<b>GRAND TOTAL \$</b>					7,821,001

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

### Estimated expenditure impacts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

## Part III: Preparation and Approval

Fiscal Note Analyst: Jordan Laramie	Phone: 360-725-5044	Date: 03/13/2020
Leg. Committee Contact:	Phone:	Date: 03/11/2020
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 03/13/2020
OFM Review: Lisa Borkowski	Phone: (360) 902-0573	Date: 03/16/2020

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

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

#### **NO CHANGE FROM PRIOR BILL ANALYSIS:**

An enacting clause is added to the bill, which states the purpose of reducing pollution from single-use plastic bags in Washington State by establishing minimum state standards for the use of such bags at retail establishments.

This act seeks to strengthen the state's waste reduction policies; fish and wildlife protection efforts; the conservation of the state's natural resources; and its pollution reduction strategy. The bill would prohibit the use of single-use plastic bags that are not made with compostable materials, except in certain instances outlined within this act. The act would place a pass-through charge on the paper and plastic film reusable bags that retail establishments can provide customers. However, the bags must meet certain recycled material and re-usability requirements. The pass-through charge is meant to encourage consumers to switch to reusable bags when shopping at retail establishments in Washington State, and provides educational assistance for retail establishments to inform consumers about making the switch to reusable bags.

This legislation would require an 8 cent pass-through charge for retailers on recycled content paper and reusable plastic carryout bags until December 31, 2025. The pass-through charge is a tax on a retail sale that a retail seller must show on any receipt it provides to its customers. This tax is meant to encourage shoppers to buy and use their own reusable bags. In addition, this bill encourages education and sale of reusable and recycled content paper carryout bags by retail establishments. Starting January 1, 2026, the pass-through tax on reusable plastic bags would increase to 12 cents. However, the pass-through charge may be amended by the 2025 legislature with additional information available from the report outlined in section 7 of this act.

This legislation would create a forum for local jurisdictions to evaluate educational outreach, complaints, and non-compliance issues filed with the Department of Ecology (Ecology). The forum would be provided with information via Ecology's website, a telephone hotline, and public outreach received via social media. The goal of this forum is to create public outreach to identify concerns and identify establishments that are not in compliance with the plastic bag ban. Along with this, the forum would help determine what educational information needs to be compiled for retailers and consumers; what complaint and enforcement actions are necessary from Ecology and local governments; and what additional outreach activities would benefit retail establishments, consumers, and other interested parties.

Until June 1, 2025, this legislation would initiate Ecology to prioritize the expedited processing of applications for permits related to the expansion or re-configuring pulp and paper mills for the purpose of manufacturing paper bags or raw material used to manufacture paper bags.

Any reusable plastic bag given to consumers by retail establishments would now have to comply with existing state law, with respect to its labeling, and contain 20% post-consumer recycled content until July 1, 2022. Reusable plastic film bags must contain 40% post-consumer material after this date. Retailers may not provide polyethylene or other non-compostable plastics that do not decompose. Retailers who provide customers with polyethylene or other non-compostable plastic bags after this date, or plastic bags that do not meet the post-consumer recycled content threshold established by this bill, would be in violation of the law and are subject to civil penalties. Appeal hearings would be heard under the jurisdiction of the Pollution Control Hearings Board.

The Pollution Hearing Control Board has jurisdiction to hear and decide appeals from the local conservation districts. Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practice, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026. Hearings required by law to be conducted by the shorelines hearings board cannot be heard by the Pollution Hearing Control Board.

Ecology and local governments have the authority to enforce the provisions of this bill including its implementation, administration, and civil enforcement of any violations that may occur.

The bill takes effect 90 days after final adjournment of the session in which it is enacted. This legislation must be funded by July 1, 2020 from the Waste Reduction, Recycling, and Litter Control Account. If this act is not funded by this account by July 1, 2020, this act is null and void.

## **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.*

### **NO CHANGE FROM PRIOR BILL:**

This new legislation does not add elements to the existing bill that would change the prior fiscal analysis. The expenditure impact of this bill for local governments remains indeterminate.

### **PUBLIC FORUM COSTS:**

The bill creates a forum where members of the community can voice complaints or concerns about retail establishments and other providers of non-recyclable plastic bags or plastic bags that do not meet the recyclable content requirements. This forum will be online only and provide assistance and outreach about education related to the statewide plastic bag ban. Local governments are not anticipated to pay for this provision. This forum would be operated and monitored by Ecology who will collaborate with local jurisdictions if there is a complaint filed against a retail establishment in a particular jurisdiction.

### **PUBLIC EDUCATIONAL OUTREACH COSTS:**

The educational outreach portion of this bill would be coordinated as a part of Ecology's forum. Complaints and issues with the statewide plastic bag ban made in the forum would be used to help determine what educational necessities are needed at the local level. Educational elements in the bill are required to be completed no later than October 1, 2020. This element would help prepare Ecology and local government employees to teach: retailers, unions, consumers, and other interested parties about reusable bag benefits and uses. The cost for the size, scale, and scope of this educational outreach portion of this legislation is currently unknown but would be paid for with the Waste Reduction, Recycling, and Litter Control Account.

## **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.*

### **NO CHANGE FROM PRIOR BILL:**

Effective June 9, 2020 to December 31, 2025, retail establishments must collect a pass-through charge of eight cents for every recycled content paper carry-out bag and reusable film plastic carryout bag that the establishment provides its customers.

This legislation would exempt the business and occupation (B&O) tax deduction for pass-through charges from business's tax preference performance statement requirements and expiration dates. Provides a B&O tax deduction for the pass-through charges for reusable carryout bags and recycled content paper carryout bags provided by retail establishments. Starting January 1, 2026, the pass-through charge for reusable film plastic bags would increase from eight cents to 12 cents. However, this tax charge is outside of the scope of the Local Government Fiscal Notes and Department of Revenue's (DOR) analysis.

### **ENFORCEMENT OF CIVIL PENALTIES:**

Local jurisdictions would have the authority to enforce civil penalties to retailers that are using plastic bags that are not in compliance with the provisions of this legislation. Local jurisdictions would be able to issue a fine in the amount \$250 per infraction, per calendar day, until the retailer achieves compliance. It is not known how many infractions would be created by retailers.

### **ENFORCEMENT OF PLASTIC BAG PROVISIONS:**

Local governments that receive information about retailers who are distributing bags that are not in compliance with the statutes of this legislation would have the authority to enforce the provision of this bill. It is not known how many complaints would be filed against retailers, nor how many jurisdictions would have to enforce the provisions of this bill. Therefore, the expenditure impact of this legislation is indeterminate.

### **PASS-THROUGH TAX REVENUE ESTIMATES:**

This bill is estimated to increase local revenues by an estimated \$1.5 million in the 11 months of impacted distributions in Fiscal Year 2021, and by \$1.6 million in Fiscal Year 2022, the first full year of impacted distributions. The pass through charge is expected to raise a total of 7.821 million distributed over local governments around the state.

### **ASSUMPTIONS**

- All Washington retailers will collect a pass-through charge of 8-cents per bag effective June 9, 2020.
- Fiscal Year 2021 reflects 12 months of cash collections due to the June 9, 2020, effective date.
- Washington residents use bags at the same per capita rate as consumers in the rest of the country.

- Washington residents in cities currently banning plastic bags use them at a rate of 40 percent of residents in cities without bans .
- An additional two percent of the Washington state population will reside in cities that currently ban plastic bags each year .
- The Washington population will grow at the same rate as projected by the Office of Financial Management .
- The United States population will grow at the same rate as projected by the U.S. Census Bureau.
- There will be no B&O tax impact due to the B&O tax deduction.
- The 12-cent per bag pass-through charge is beyond the scope of this fiscal note .

DATA SOURCES

- U.S. Census Bureau, National Population Projections Datasets, 2017
- Washington State Office of Financial Management, State Population Forecast, November 2019
- BagLaws.com
- Municipal Research and Services Center, mrsc.org

TOTAL REVENUE IMPACT:

Local Government, if applicable (cash basis, \$000):

FY 2020 -	\$ 0
FY 2021 -	\$ 1,500
FY 2022 -	\$ 1,600
FY 2023 -	\$ 1,600
FY 2024 -	\$ 1,600
FY 2025 -	\$ 1,600

ESTIMATED REVENUE TO LOCAL GOVERNMENT:

Local Government, if applicable (cash basis, \$000):

FY 2020 -	\$ 0
FY 2021 -	\$ 1,485
FY 2022 -	\$ 1,584
FY 2023 -	\$ 1,584
FY 2024 -	\$ 1,584
FY 2025 -	\$ 1,584

SPECIFIC LOCAL GOVERNMENT REVENUE IMPACT:

Counties:

FY 2020 -	\$505,346
FY 2021 -	\$539,035
FY 2022 -	\$539,035
FY 2023 -	\$539,035
FY 2024 -	\$539,035
FY 2025 -	\$539,035

Cities:

FY 2020 -	\$486,189
FY 2021 -	\$518,602
FY 2022 -	\$518,602
FY 2023 -	\$518,602
FY 2024 -	\$518,602
FY 2025 -	\$518,602

Special Districts:

FY 2020 -	\$493,466
FY 2021 -	\$526,363

FY 2022 - \$526,363  
FY 2023 - \$526,363  
FY 2024 - \$526,363  
FY 2025 - \$526,363

#### DATA SOURCES

- U.S. Census Bureau, National Population Projections Datasets, 2017
- Washington State Office of Financial Management, State Population Forecast, November 2019
- BagLaws.com
- Municipal Research and Services Center, mrsc.org

#### METHODOLOGY:

The distributions in this note for cities, counties, and special districts are based on DOR data for local sales and use tax distributions from calendar year 2015 (the most current year available). Mitigation payments and distributions to hospital benefit zones are not factored into this distribution. School districts are also not included in the special districts distribution. This results in a distribution of 34.03 percent to counties, 32.74 percent to cities, and 33.23 percent to special districts. The one percent DOR administrative fee has also been accounted for.

Note: School district impacts, including construction costs, operating costs, levy shifts, and other revenue impacts are described in fiscal notes prepared by the OSPI School District Fiscal Note process. Local Government Fiscal Notes include impacts to all other local governments (cities, counties, special districts). Please refer to the School District Fiscal Note for school district fiscal impacts.

#### LOCAL GOVERNMENT PASS-THROUGH REVENUE SOURCES:

- Department of Revenue 5323 ES HB AMH ENVI, 2020
- Department of Revenue Local Tax Distributions (2016)
- Local Government Fiscal Note program "Local Sales Tax" model (2019)
- Local Government Fiscal Note program "Sales and Use Tax Distribution" model (2019)

#### BILL ANALYSIS SOURCES:

- Department of Revenue, FN 2S HB 1205, 2020
- Department of Commerce
- House Bill Analysis, 2S HB 1205, 2019
- House Bill Report, ESSB 5323, 2020