Multiple Agency Fiscal Note Summary

Bill Number: 5842 E 2S SB AMH ENC H2769.E	**Title:** Climate change

Estimated Cash Receipts

Agency Name	2021-23			2023-25			2025-27		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Department of Ecology	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total $	0	0	0	0	0	0	0	0	0

Estimated Operating Expenditures

Agency Name	2021-23				2023-25				2025-27			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Office of Attorney General	.0	0	0	0	.0	0	0	0	.0	0	0	0
Office of Financial Management	.0	83,000	83,000	83,000	.0	137,000	137,000	137,000	.0	0	0	0
Department of Ecology	.0	0	0	0	.0	0	0	0	.0	0	0	0
Environmental and Land Use Hearings Office	.0	0	0	0	.8	185,725	185,725	185,725	.8	180,168	180,168	180,168
Total $	0.0	83,000	83,000	83,000	0.8	322,725	322,725	322,725	0.8	180,168	180,168	180,168

Estimated Capital Budget Expenditures

Agency Name	2021-23			2023-25			2025-27		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Office of Financial Management	.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
Total $	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

FNPID 65339

Prepared by: Lisa Borkowski, OFM	**Phone:** (360) 742-2239	**Date Published:** Final 3/10/2022

Individual State Agency Fiscal Note

Bill Number: 5842 E 2S SB AMH ENGR H2769.E	Title: Climate change	Agency: 100-Office of Attorney General

Part I: Estimates

- [X] **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: 03/04/2022
Agency Preparation:	Allyson Bazan	Phone: 360-586-3589	Date: 03/08/2022
Agency Approval:	Joe Zawislak	Phone: 360-586-3003	Date: 03/08/2022
OFM Review:	Tyler Lentz	Phone: (360) 790-0055	Date: 03/09/2022

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.

No fiscal impact. This legislation is not expected to generate any costs or savings for the Attorney General's Office (AGO). The AGO completed an analysis for legal services and fiscal impact from the most likely state agencies.

The AGO Ecology Division (ECY) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Ecology. Section 3 (9) creates a new exemption from public disclosure for bidding information, information contained in the secure tracking system, and all financial, proprietary, and other market-sensitive information that is submitted to Ecology or its contractors under the cap-and-invest program. This section also specifies that records containing the above information are exempt from public disclosure "in their entirety," which will allow Ecology to simply withhold such records and reduce the amount of legal services needed. Section 3 (9) directs Ecology to determine what constitutes "market-sensitive information" requiring protection from disclosure. We presume Ecology will need to conduct rulemaking to accomplish this. Such a rulemaking is anticipated to be of moderate complexity and controversy and will require ECY participation throughout but hours are assumed nominal. The obligations in this section will create no new legal services impacts, as the combined impact is nominal.

Section 4(9)(c) requires Ecology to repeal the Clean Air Rule, WAC 173-442 and legal services associated with the rulemaking are assumed nominal. New legal service costs are not included in this fiscal note.

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

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 5842 E 2S SB AMH ENGR H2769.E	Title: Climate change	Agency: 105-Office of Financial Management

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
Account					
General Fund-State 001-1	0	83,000	83,000	137,000	0
Total $	0	83,000	83,000	137,000	0

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:

[X] 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: 03/04/2022
Agency Preparation:	Kathy Cody	Phone: (360) 480-7237	Date: 03/08/2022
Agency Approval:	Jamie Langford	Phone: 360-902-0422	Date: 03/08/2022
OFM Review:	Tyler Lentz	Phone: (360) 790-0055	Date: 03/09/2022

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.

Sec 4 (10) requires OFM to submit a report to the appropriate committees of the legislature that summarizes laws that regulate greenhouse gas emissions from stationary sources and the greenhouse gas emission reductions attributable to each chapter relative to a baseline in which the Climate Commitment Act and all other state laws regulating greenhouse gas emissions are presumed to be in effect. The report is also to describe laws who implementation may effectuate reductions in greenhouse gas emissions from stationary sources.

Laws to be examined includes but is not limited to:
(i) 19.27A RCW; State building code
(ii) 19.280 RCW; Electric utility resource plans.
(iii) 19.405 RCW; Washington clean energy transformation act.
(iv) 36.165 RCW; Commercial property assessed clean energy and resiliency (C-PACER) program
(v) 43.21F RCW; State energy office.
(vi) 70A.15 RCW; Washington clean air act.
(vii) 70.30 RCW; Motor vehicle emission standards.
(viii) 70A.45 RCW; Limiting greenhouse gas emissions
(ix) 70A.60 RCW; Hydrofluorocarbons—Emissions reduction.
(x) 70A.535 RCW; Transportation fuel—Clean fuels program.
(xi) 80.04 RCW; Public utilities, Regulations—General.
(xii) 80.28 RCW; Public utilities, Gas, electrical, and water companies.
(xiii) 80.70 RCW; Public utilities, Carbon dioxide mitigation.
(xiv) 80.80 RCW; Public utilities, Greenhouse gas emissions—Baseload electric generation performance standard and
(xv) Chapter 81.88 RCW, Gas and hazardous liquid pipelines

This report is to be completed by December 1, 2023.

OFM may hire a consultant to complete this work.

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.

OFM would hire a consultant to complete the analysis required in Section 4. Based upon experience with previous similar studies, the cost of this analysis is estimated at $220,000 and would take 8 months to complete.

Work would begin in April 2023 and be completed by December 1, 2023. This results in expenditures of $83,000 in FY 23 and $137,000 in FY 24.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
001-1	General Fund	State	0	83,000	83,000	137,000	0
		Total $	0	83,000	83,000	137,000	0

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts		83,000	83,000	137,000	
E-Goods and Other Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total $	0	83,000	83,000	137,000	0

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

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 5842 E 2S SB AMH ENGR H2769.E	Title: Climate change	Agency: 461-Department of Ecology

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

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

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:

[X] 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.

[X] Requires new rule making, complete Part V.

Legislative Contact:		Phone:	Date: 03/04/2022
Agency Preparation:	Pete Siefer	Phone: 360-407-6646	Date: 03/08/2022
Agency Approval:	Erik Fairchild	Phone: 360-407-7005	Date: 03/08/2022
OFM Review:	Lisa Borkowski	Phone: (360) 742-2239	Date: 03/10/2022

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 5842 E2SSB, 5842 E2SSB AMH ENVI H2769.E makes the following changes related to the Department of Ecology (Ecology):

- Section 2 would eliminate the requirement that the Climate Commitment Act (CCA) rules must be similar to other jurisdictions with respect to the transfer of compliance instruments in a manner that smooths a covered entity's compliance obligation over the compliance period.
- Section 3 (7) (e) would be amended to specify that the $5,200,000,000 limit over the first 16 years of the CCA revenue transfers to the Carbon Emission Reduction Account would be measured on a fiscal year basis.
- Section 4 (9) (b) would specify that state agencies may not adopt or enforce a greenhouse gas emission (GHG) pricing or market-based emission program for stationary sources except as authorized or directed by state statute in effect as of July 1, 2022.
- Section 4 (10) would require the Office of Financial Management (OFM) to submit a report to the Legislature by December 1, 2023.
- Section 7 would create the Price Ceiling Unit Emission Reduction Investment Account.
- Section 12 would require that any offset credits must have been issued for reporting periods wholly after July 25, 2021, or within two years prior to July 25, 2021.
- Section 13 would add the Climate Commitment Account and the Natural Climate Solutions Account (NCSA) to the list of accounts from which funding must achieve certain expenditure targets.
- Section 14 would add the Climate Commitment Account and NCSA to be subject to recommendations from the Environmental Justice Council created in RCW 70A.02.110.
- Section 15 would make conforming amendments to the statutory duties assigned to the Environmental Justice Council (Council) that was created in E2SSB 5141 from the 2021 session to reflect additional duties assigned to the Council in the CCA.

These changes would not change the fiscal impact related to Ecology.

In 2021, the Legislature passed the CCA which establishes a comprehensive cap-and-invest program to reduce carbon pollution, the Clean Fuel Standard (CFS), which requires fuel suppliers to gradually reduce the carbon intensity of transportation fuels to 20 percent below 2017 levels by 2038, and the Hydrofluorocarbons Refrigerant Management program (HFC), which established a refrigerant management program to address refrigerant emissions from large air conditioning and refrigeration equipment. The CCA preempts the Clean Air Rule. The Air Quality Program (AQP) within Ecology is responsible for the management and implementation of these new programs.

The bill proposes several technical adjustments to the CCA and directs Ecology to repeal the Clean Air Rule.

Section 2 would add a new section to the CCA to establish requirements related to a statutory compliance obligation for covered or opt-in entities (entities) to cover emissions occurring each four-year compliance period. Ecology would also be required to set, by rule, a percentage of compliance instruments that must be transferred each year, whereby entities would be required to fully satisfy their compliance obligation for the compliance period. If an entity submitted insufficient compliance instruments to meet its compliance obligation, it would be subject to a penalty as provided in RCW 70A.65.200. Older vintage allowances would be required to be retired before newer vintage allowances. Furthermore, upon receipt of all compliance instruments transferred by an entity to meet the compliance obligation, Ecology would be required to retire the allowances or offset credits. Subsection 2 (3) (a) would allow all covered entities to substitute the submission of compliance instruments with price ceiling units (PCUs).

Section 3 would amend RCW 70A.65.100 related to auctions of allowances to require that the following records and information be confidential and exempt from public disclosures in their entirety: Bidding information (as identified in section 8); information contained in the secure, online electronic tracking system pursuant to RCW 70A.65.090 (6); financial, proprietary information, and market sensitive information submitted to the department pursuant to this chapter; financial, proprietary information, and market sensitive information submitted to the independent contractor or the financial services administrator engaged by Ecology; and financial, proprietary information, and market sensitive information submitted to a jurisdiction with which the department would have entered into a linkage agreement.

Section 4 would amend the CCA to specify that no state agency may adopt or enforce a program that regulates GHG emissions for a stationary source except as authorized under the program that is not in effect as of July 1, 2022. Additionally, subsection 4 (9) (c) would direct Ecology to repeal chapter 173-442 WAC, the Clean Air Rule, which was preempted under the CCA. Subsection 4 (10) would require OFM to submit a report to the Legislature that summarizes laws that regulate and may effectuate reductions in GHG emissions from stationary sources. OFM would be authorized to contract for all of part of the work related to the report.

Sections 6 and 7 would amend the CCA to replace “auction ceiling price” with “reserve auction floor price” to clarify it is the reserve auction floor price that triggers the release and auctioning of allowances in the allowance price containment reserve.

Section 7 would create the Price Ceiling Unit Emission Reduction Investment Account in the state treasury. All receipts from the sale of PCUs would be deposited in the account and may only be spent after appropriation.

Section 9 would amend RCW 70A.15.2200 of the Washington Clean Air Act to move the annual GHG emissions reporting deadline for electric power utilities from March 31 to June 1.

Section 10 would amend the CCA to change the definition of “biomass” to include biofuels from municipal wastewater treatment plants under the program.

Section 11 would amend the CCA to allow Ecology to suspend the emissions containment reserve (ECR) trigger price if a jurisdiction with which Ecology might enter into a linkage agreement does not have an ECR trigger price.

Section 12 would amend the CCA to require that any offset credits must be issued for reporting periods wholly after July 25, 2021, or within two years prior to July 25, 2021, and that they must be consistent with offset protocols adopted by Ecology.

Section 13 would amend RCW 70A.65.030 and RCW 70A.65.240 to add the Climate Commitment Account and NCSA to the list of accounts from which funding must conduct an environmental justice assessment and achieve certain expenditure targets in overburdened communities.

Section 14 would amend RCW 70A.65.040 to add the Climate Commitment Account and NCSA to be subject to recommendations from the Council created in RCW 70A.02.110.

Section 15 would make conforming amendments to the statutory duties assigned to the Council that was created in E2SSB 5141 from the 2021 session to reflect additional duties assigned to the Council in the CCA.

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 .

The cash receipts impact under this bill is indeterminate for sections 2 and 11.

Section 2 - Penalties

Penalties related to compliance with RCW 70A.65.200 are assumed to be limited, but unknown, and therefore are not estimated in this fiscal note.

Section 2 (3) (a) and 7 – Price Ceiling Units
Under current law, Ecology must require by rule that covered or opt-in entities annually transfer a percentage of compliance instruments in order to smooth their compliance obligation, but must fully satisfy their compliance obligation for each four-year compliance period. Compliance would occur through the transfer of compliance instruments or PCUs from the covered or opt-in entities' compliance account (s) to Ecology on the compliance deadline date.

Section 2(3)(a) would allow all covered entities to substitute the submission of compliance instruments with PCUs. This would allow for a greater number of cap-and-invest covered entities to purchase PCUs. With more entities having the ability to purchase PCUs, Ecology assumes that more PCUs may be sold. If there was an increase in PCU sales, there would be an increase in PCU sales revenue.

The PCU sales revenue would not affect CCA auction revenue. Ecology is statutorily required in RCW 70A.65.160 (3) to use the revenue generated through the sale of PCUs to achieve additional emissions reductions on at least a metric ton by metric ton basis. However, as the demand to purchase PCUs, and therefore the revenue generated through the sale of PCUs, is unknown, Ecology assumes that the proposed change in subsection 2 (3) (a) would have an indeterminate fiscal impact to revenue in FY 2024 and each year prior to the compliance event thereafter. The revenue that is collected through the sale of PCUs would be deposited into the Price Ceiling Unit Emission Reduction Investment Account created in Section 7, and funds from this account would only be able to be spent after appropriation.

Section 11 – ECR Trigger Price
Under current law, the ECR must be established by Ecology to help ensure that the price of allowances remains sufficient to incentivize reduction in GHG emissions.

Currently, in the event that the ECR trigger price is met during an auction, Ecology must automatically withhold allowances as needed and place them in the ECR account (where they may be sold in future auctions). As such, the ECR trigger price can be used to create price fluctuation, as auction supply can be changed unexpectedly by pulling available allowances into the ECR.

Under current statute, the ECR trigger price is active unless Ecology has entered into a linkage agreement with a jurisdiction that has no ECR. The proposed change in this section would allow Ecology to suspend the ECR trigger price if a jurisdiction with which Ecology might enter into a linkage agreement does not have an ECR trigger price.

As it is unknown whether we will enter a linkage agreement, and when this would occur, Ecology assumes this would have an indeterminate fiscal impact to revenue in FY 2023 and ongoing.

Section 12
Under current law, any offset credits used may not be in addition to or allow for an increase in the emissions limits established under RCW 70A.45.020. This change would add the requirement that any offset credits must also be issued for reporting periods wholly after July 25, 2021. or within two years prior to July 25, 2021, and that they must be consistent with offset protocols adopted by Ecology. This amendment would change the time limitation to be focused on when credits are issued, rather than focused on a project. This change would have no fiscal impact to revenue.

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.

There would be no expenditure impact to Ecology under this bill, as described below.

Section 2: Ecology assumes that rulemaking to include these technical additions would be covered in the current CCA rulemaking process, with no new expenditure impact.

Section 3: In coordination with Office of the Attorney General (AGO), Ecology assumes that no additional legal resources would be needed to implement this section. Ecology currently has funding as identified in the E2SSB 5126 PL fiscal note for an Environmental Specialist (ES) 5 to consult with AGO staff and develop procedures for handling and safeguarding confidential and personal information provided by market participants.

Section 4 (9): Under current law, RCW 70A.65.200 as passed in 2021 under E2SSB 5126 PL, the CCA preempts the provisions of chapter 173-442 WAC, Clean Air Rule. This bill would direct Ecology to repeal the rule. Due to the preemption in current law, Ecology is already in process to repeal the rule in FY 2022 from existing funding, therefore this would have no new fiscal impact. Please note, the Governor's 2022 supplemental operating budget proposes to eliminate funding to implement the Clean Air Rule in maintenance level, consistent with the preemption of the rule under current law.

Section 4 (10): This section would require OFM to submit a report to the Legislature by December 1, 2023. In order to complete the report, OFM may reference the RCW chapters in subsection 4 (10) (b). Under current law, Ecology regulates GHG emissions in accordance with the Washington Clean Air Act, chapter 70A.15 RCW, has emissions reduction targets outlined in chapter 70A.45 RCW, regulates Hydrofluorocarbons in chapter 70A.60 RCW, and is implementing the Clean Fuel Standard per chapter 70A.535 RCW. Ecology assumes we would provide information to OFM as needed on these and any other laws OFM chooses to address under Ecology. Since this information is publicly available and digitally published, we assume the report in this section would have no fiscal impact to Ecology.

Section 9: Ecology assumes the process and procedure would be the same for the review and verification of the electric power utilities despite the change in deadline for the required report, with no change in fiscal impact.

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

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part IVB*

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 .

Ecology assumes that section 2 would require rulemaking; however, these technical additions would be covered in the current CCA rulemaking process.

Individual State Agency Fiscal Note

Bill Number: 5842 E 2S SB AMH ENGR H2769.E	**Title:** Climate change	**Agency:** 468-Environmental and Land Use Hearings Office

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	0.0	0.0	0.0	0.8	0.8
Account					
General Fund-State 001-1	0	0	0	185,725	180,168
Total $	0	0	0	185,725	180,168

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: 03/04/2022
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 03/08/2022
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 03/08/2022
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 03/10/2022

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.

5842 E2S SB AMH ENGR H2769.E

This bill makes additions and amendments to the 2021 climate commitment act, RCW 70A.65. The bill is related to compliance instruments under the cap and investment program.

Section 2 – New Section. Provides compliance obligations for emissions for entities, with the first compliance period beginning January 2023. Ecology shall make rules requiring entities to transfer a percentage of compliance instruments annually and entities are subject to penalties for submitting insufficient compliance instruments.

Section 4 – Orders and penalties under the chapter are appealable to the Pollution Control Hearings Board under RCW 43.21B.

FISCAL IMPACT to the Pollution Control Hearings Board: YES. No changes to fiscal impact from earlier versions of the bill.

Current Agency Structure: The Environmental & Land Use Hearings Office (ELUHO) is the administrative agency that supports three environmental and land use hearings boards – the Pollution Control Hearings Board (PCHB), Shoreline Hearings Board (SHB), and Growth Management Hearings Board (GMHB). Appeals would come to the PCHB under the proposed bill. In addition to appeals from this bill, the PCHB hears appeals from 37 other environmental statutes including Washington's clean air act, toxic pollution, forest practices, derelict vessels, and water resource permits. The PCHB consists of three Governor-appointed board members who have two administrative appeals judges (AAJs) to assist in all cases.

Current workload: As of January 1, 2022, the PCHB is handling 72 active appeals arising from permits and enforcement actions by a variety of state or local agencies. The PCHB is now scheduling hearings 12 months in advance for cases that normally would be heard in 6 months.
Assume Increased Cases: ELUHO assumes the PCHB will receive 8 appeals per year stemming from the bill based on our experience with appeals from regulatory programs. ELUHO assumes it will take more time initially for the PCHB to understand, analyze, and issue final decisions in these cases. After an initial normalizing period, we anticipate these appeals will be of medium/average complexity.

Assume new appeals in FY 2024 to align with Ecology's rule making process for the CCA.

Assume new Administrative Law Judge (AAJ) FTE: The PCHB will need approximately 0.5 FTE for an AAJ experienced in environmental law to assist in addressing the new cases. RCW 43.21B.005 (2) authorizes the ELUHO director to appoint such AAJs to assist the PCHB. The AAJ 0.5 FTE will not serve as a member of the Boards, but will conduct legal research and writing, mediate cases, draft Board memos and materials, and perform other legal duties to assist the Board.

Assume additional Legal Assistant FTE: Currently, a support team of three Legal Assistants provide all the support for all three Boards, including managing all Board cases and court filings, providing support for Board members, AAJs, and Board meetings, and providing administrative support for ELUHO office functions. We assume 0.5 Legal Assistant (LA3) FTE for every 1.0 AAJ FTE. The bill will require approximately 0.25 FTE for a Legal Assistant to manage the additional cases and AAJ FTEs.

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 .

No Cash Receipts.

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.

ELUHO estimates each PCHB appeal arising from the bill will require approximately 165 hours (85 hours pre-hearing work, and 80 hours hearing and post-hearing work) of AAJ work to complete. These estimates are based on a current analysis of Board and support team work.

165 hours/appeal x 8 appeals = 1,320 PCHB appeal hours estimated.

ELUHO assumes this work on new appeals begins in FY 2024.

ELUHO assumes it would hire a half-time Administrative Appeals Judge and a quarter-time Legal Assistant 3 to do the work required in the bill. An administrative appeals judge makes $90,000 per year plus related benefits estimated at $29,622 per year at current benefits rates. The agency needs a half-time AAJ, so the salary would be $90,000 times 0.5 FTE = $45,000. Related benefits would total $21,357.

A Legal Assistant 3 makes about $54,108 per year with related benefits of about $23,197. The agency needs a quarter time Legal Assistant 3 so salary would be $54,108 times 0.25 FTE = $13,527. Related benefits would total $5,799.

Goods and services are estimated at $3,400 per year and include communications, payroll processing, training, and other staff costs. Estimates include some travel at the low cost per diem rates totaling $1,001 per year. Also included is one time equipment costs for furniture and computers totaling $5,557 in fiscal year 2024.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
001-1	General Fund	State	0	0	0	185,725	180,168
		Total $	0	0	0	185,725	180,168

III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years				0.8	0.8
A-Salaries and Wages				117,054	117,054
B-Employee Benefits				54,312	54,312
C-Professional Service Contracts					
E-Goods and Other Services				6,800	6,800
G-Travel				2,002	2,002
J-Capital Outlays				5,557	
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total $	0	0	0	185,725	180,168

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 2022	FY 2023	2021-23	2023-25	2025-27
Administrative Appeals Judge (Exempt)	90,000				0.5	0.5
Legal Assistant 3 (425G) (Range 44/StepL)	54,108				0.3	0.3
Total FTEs					0.8	0.8

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

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

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part IVB*

NONE

No Capital Budget Impacts.

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 PCHB would need to amend its jurisdictional rule.