

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5154 SB	<b>Title:</b> Solid waste management
-----------------------------	--------------------------------------

## Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Office of Attorney General	0	0	142,000	0	0	122,000	0	0	122,000
Utilities and Transportation Commission	0	0	0	0	0	456,405	0	0	0
Department of Ecology	0	0	766,537	0	0	1,568,806	0	0	872,789
<b>Total \$</b>	<b>0</b>	<b>0</b>	<b>908,537</b>	<b>0</b>	<b>0</b>	<b>2,147,211</b>	<b>0</b>	<b>0</b>	<b>994,789</b>

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	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 Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Office of Attorney General	.5	0	0	142,000	.4	0	0	122,000	.4	0	0	122,000
Department of Revenue	Fiscal note not available											
Liquor and Cannabis Board	.0	0	0	0	.0	0	0	0	.0	0	0	0
Utilities and Transportation Commission	.4	0	0	129,707	2.0	0	0	473,502	.0	0	0	11,398
Department of Health	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Ecology	10.0	0	0	3,760,211	4.7	0	0	1,873,281	2.3	0	0	1,727,835
Environmental and Land Use Hearings Office	.3	80,000	80,000	80,000	1.3	294,000	294,000	294,000	1.3	294,000	294,000	294,000
<b>Total \$</b>	<b>11.2</b>	<b>80,000</b>	<b>80,000</b>	<b>4,111,918</b>	<b>8.4</b>	<b>294,000</b>	<b>294,000</b>	<b>2,762,783</b>	<b>4.0</b>	<b>294,000</b>	<b>294,000</b>	<b>2,155,233</b>

Agency Name	2023-25			2025-27			2027-29		
	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	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Department of Revenue	Fiscal note not available								
Liquor and Cannabis Board	.0	0	0	.0	0	0	.0	0	0
Utilities and Transportation Commission	.0	0	0	.0	0	0	.0	0	0
Department of Health	.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>

Agency Name	2023-25			2025-27			2027-29		
	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 Breakout

--

<b>Prepared by:</b> Lisa Borkowski, OFM	<b>Phone:</b> (360) 742-2239	<b>Date Published:</b> Preliminary
---	---------------------------------	---------------------------------------

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5154 SB	<b>Title:</b> Solid waste management	<b>Agency:</b> 100-Office of Attorney General
-----------------------------	--------------------------------------	---

## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Legal Services Revolving Account-State 405-1	71,000	71,000	142,000	122,000	122,000
<b>Total \$</b>	71,000	71,000	142,000	122,000	122,000

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.5	0.5	0.5	0.4	0.4
<b>Account</b>					
Legal Services Revolving Account-State 405-1	71,000	71,000	142,000	122,000	122,000
<b>Total \$</b>	71,000	71,000	142,000	122,000	122,000

### 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: Greg Vogel	Phone: 360-786-7413	Date: 01/06/2023
Agency Preparation: Allyson Bazan	Phone: 360-586-3589	Date: 01/13/2023
Agency Approval: Joe Zawislak	Phone: 360-586-3003	Date: 01/13/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 01/16/2023

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

Part One: Providing for Producer Responsibility in the Management of Packaging and Paper Products  
Sections 101-129

Findings and definitions. Duties of a Producer Responsibility Organization (PRO): registration, planning, performance measurement, reporting.

Departments Duties: Department of Ecology (Ecology) must prepare annual reporting on costs and fees to support the program and performance rates; staff the advisory council, adopt rules; various implementation and regulatory directions; implementation dates.

Rate Study and Statewide Needs Assessment: Ecology must review specific factors to inform the implementation of the program and must provide for comment and input on recommendations.

Plan Participation Obligation—Stakeholder Consultation for Plan: Requirements for the PRO to participate in planning with Ecology and Stakeholders.

Plan Contents: Requirements Plan Approval, Updates, and Revisions: Ecology must approve plans; Ecology may request updates and revisions.

Contingency Plan: The PRO must establish written contingency for taking over operations if existing PRO Plan must be carried out by another entity, such as an escrow company.

Collection and Management: Collectors must follow existing collection and management laws; covered products must be managed in accordance with the Plan; other requirements for management; reporting requirements.

Performance Rates: Metrics required in predicting (nine-year forecast) and measuring performance; explanation of differences in report to Ecology.

Funding Requirements: The PRO must fully fund all its requirements; fee instructions.

Convenience Standards: The PRO must fund activities to make convenient collection service available, requirements for convenience.

Government Entities—Authority to Collect Covered Products: No obligations for governments contracting for collection to follow PRO Plan; local governments may not pass ordinances requiring producers of covered products to provide recycling in addition to state requirements.

Cost Reimbursement for Services Provided by Government Entities.

Cost Reimbursement for Services Regulated by the Utilities and Transportation Commission (UTC).

Service Provider Agreements: Agreements between the PRO and government entities is limited to the scope of reimbursement provided by this bill.

Infrastructure Investments: Must strive for investment and report why infrastructure improvements are or are not implemented.

Education and Outreach: The PRO must do education and outreach; collaborate with Ecology.

Annual Reporting on Activities: Annual reporting requirements.

Advisory Council: Members appointed by Ecology; specific requirements for membership; Ecology must staff Council; Council provides advice and recommendations to Ecology on implementation and management.

Confidential Information Submission: Ecology may determine information submitted is confidential and can be withheld from the public.

Prohibition on the Uses of Funds by the PRO: The PRO may not use funds collected for implementing the plan, disputing enforcement, or lobbying.

Enforcement Authority: Provides Ecology penalty authority of up to \$1,000 per violation per day; Ecology can issue corrective actions and orders for compliance; may appeal to the Pollution Control Hearings Board (PCHB).

Truth in Labeling: Specific labeling requirements. Packaging Registration Clearinghouse: Ecology can participate/develop clearinghouse on packaging and paper products.

Petition for the Exclusion of Certain Products: Upon request, Ecology can exclude products from the requirements of this bill in a PRO Plan; specific factors.

## Part Two: Postconsumer Recycled Content (PCRC) Requirements Sections 201-223

Definitions. De Minimis Producers: Specifications; reporting requirements.

PCRC Requirements for PCRC Products: Registration requirements for PRO; implementation dates for meeting minimum PCRC requirements by type of container. PCRC Requirements for various types of containers.

PCRC for Cannabis Packaging: Establishes PCRC that must be in cannabis packaging; instructs the Liquor and Cannabis Board (LCB) to coordinate with Ecology and adopt necessary rules for regulation.

PCRC Reporting by the PRO: The PRO must submit specific information regarding PCRC material collection and management to Ecology.

Adjustments and Temporary Exclusions to PCRC Rates: Ecology may adjust from the statute the minimum PCRC percentage for a type of container; factors and limitations.

Administrative Role and Enforcement by the Department: Ecology may issue enforcement and penalties for producers and PRO not meeting the registration, fees payment, or reporting requirements; PRO must aggregate penalties/quantities of its producers and provide for payment; Ecology must calculate the amount of the penalty based upon the amount in pounds in the aggregate; may appeal to the PCHB.

PRO Authority: Additional optional programs to encourage recycled content.

Rulemaking authority to Ecology; certificate of compliance procedures for producers; roll cart collections bins plastic requirements; conforming amendments to implement this part.

Part Three: Reimbursable Deposit Program Standards (Beverage Container Deposit Program Provisions)  
Sections 301-320

Definitions. Provides that the PRO may establish and operate a beverage container deposit return system in lieu of meeting the PCRC requirements.

Qualifying Beverage Containers.

Distributor Responsibility Organization (DRO)—Creation and Registration: WA distributors must join or make a DRO; the DRO must be approved by Ecology; registration requirements; reporting requirements; qualifying beverage deposit return system requirements; Enforcement and penalties authorized; restrictions on fee usage for dispute resolution.

Refund Value: Value is \$0.10; Ecology can adjust.

Indication of Refund Value: containers must be marked.

Department Duties: Must estimate costs and set fees for the deposit return system; adopt rules; review and approve the DRO plans; community outreach requirements; payments and revenue directions.

Refuse and Recycling Performance Requirements: Metrics for the DRO performance requirements on reuse and recycling rates.

Deposit Return System Plan: Various planning and reporting requirements for the DRO; Ecology review and approval.

Operation of Deposit Return System: Requirements for collection, management, and payment; outreach requirements for the DRO; DRO request and approval process by Ecology for alternative recycling processes; DRO responsibilities.

Reporting.

Unclaimed Refunds.

Payment of Deposit for Collection Using other Infrastructure and Service Provider Agreements: the DRO must accept and pay deposit for curbside beverages collected separately from curbside bin; service agreements between the DRO and others limited to redeeming deposits; DRO contractual agreements; Ecology must consult with other state agencies on DRO reviews.

Stakeholder Consultation; Education and Outreach.

Contingency Plan: DRO must submit a contingency plan to Ecology; plan for plan expiration, DRO transfers duties, DRO ceases duties, any other potential event.

Civil Penalties: DRO pays Ecology \$0.10 for beverage containers not collected per the performance rates; civil penalty for violations \$1,000 for first, and up to \$10,000 for second/subsequent, violation is one day of noncompliance; ECY may issue orders, revoke the PRO plan, require plan revision, require more reporting; must offer opportunity to respond; may appeal to PCHB.

Feasibility Study: Ecology must complete study to look at drop off locations for unwanted plastic products/packaging; must include public comment.

Litter Tax Study: Ecology must consult with the PRO, DRO and Revenue to report to the legislature on the litter tax.

Part Four: Amendments to Solid Waste Management Laws  
Sections 401-416

Findings and conforming amendments to include PRO and DRO duties and expectations.

Part Five: Other conforming amendments and Miscellaneous Provisions  
Sections 501-509

Part Six: Codification Directives  
Sections 601-603

**II. B - Cash receipts Impact**

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

Cash receipts are assumed to equal the Legal Services Revolving Account (LSRA) cost estimates. These will be billed through the revolving account to the client agency.

The client agency is the Department of Ecology (Ecology). The Attorney General's Office (AGO) will bill all clients for legal services rendered.

These cash receipts represent the AGO's authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agency's fiscal note. Appropriation authority is necessary in the AGO budget.

The AGO will bill Ecology based on the below workload assumptions:

**AGO AGENCY ASSUMPTIONS:**

Ecology will be billed for non-Seattle rates:

FY 2024: \$71,000 for 0.28 Assistant Attorney General (AAG), and 0.14 Legal Assistant (LA).

FY 2025: \$71,000 for 0.28 AAG and 0.14 LA.

FY 2026: \$61,000 for 0.24 AAG and 0.12 LA and in each FY thereafter.

**II. C - Expenditures**

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

Attorney General's Office (AGO) Agency Assumptions:

Location of staffing housed is assumed to be in a non-Seattle office building.

Total workload impact in this request includes standard assumption costs for goods & services, travel, and capital outlays for all FTE identified.

Agency administration support FTE are included in the tables, for every 1.0 FTE Assistant Attorney General (AAG), the AGO includes 0.5 FTE for a Legal Assistant 3 (LA) and 0.25 of a Management Analyst 5 (MA). The MA is used as a representative classification.

Assumptions for the AGO Ecology Division's (ECY) Legal Services for the Department of Ecology (Ecology).

The AGO will bill Ecology for legal services based on the enactment of this bill.

ECY will be required to provide rulemaking advice in FY2024 and FY2025:

For the new extended producer responsibility (EPR) program for paper and plastic packaging (Sections 101 through 128, as well as for the products with specified post-consumer recycled content requirements that would be removed from current RCW 70A.245—with the addition of new product categories plastic food tubs, single use cups, thermoform containers and cannabis packaging--and placed under the EPR program by Sections 201 through 214):

Advice on complex rulemaking in FY 2024, FY 2025, and first part of FY 2026. Topics will include producer responsibility (PRO) fee structure, plan content, annual report content, education and outreach requirements, convenience standards, services to vulnerable communities, recycled content requirements and Cannabis packaging requirements. Ecology assumes rules will be complex, highly technical, and will take 2.25 years, starting Oct 2023 and finishing December 2025.

FY2024 and FY2025: 0.14 FTE AAG.

FY2026: Finishing advice on the above two complex rulemakings as described above (extended producer responsibility by December 2025, beverage container deposit return system by October 2025).

ECY will be required to provide Enforcement and implementation advice.

Advice and representation in support of Ecology's enforcement efforts to ensure producer participation in EPR program, for example, registration and annual fee payments starting June 2024, determining responsible parties starting January 2023, enforcement letters, penalties) starting in FY 2024 and ongoing. In addition, advice and representation in support of Ecology's enforcement of EPR program implementation (ensuring producer financial responsibility, addressing possible producer appeals to the Pollution Control Hearings Board).

FY2026 - FY2028: Continued enforcement and implementation advice and representation as described above but increasing due to enforcement of adopted rules.

FY2024 and FY2025: 0.18 FTE AAG

FY2026 - FY2028: 0.15 AAG FTE for EPR program, 0.09 AAG FTE for DR program.

For amendments to RCW 70A.245 (Sections 215 through 223):

i. A reduction in the current level of advice and representation to Ecology for implementation of RCW 70A.245 (post-consumer recycled content requirements certain plastic packaging and garbage bags) due to the elimination of producer registration and fee requirements by Section 216, and a change in the types of products covered under RCW 70A.245 (trash bags remain; beverage, household cleaner, and personal care product containers move to product responsibility program created by the bill; new products added to RCW 70A.245 are pesticide containers, trash bags, plant pots/trays, roll carts).

ii. Advice and representation (similar to under current RCW 70A.245) in support of Ecology's enforcement to ensure producer compliance with respect to enforcement letters and penalties appealable to the Pollution Control Hearing Board (PCHB) if producers are not providing certificate of compliance demonstrating recycled content for plastic collection bins and pesticide containers in FY 2025 and plastic pots and trays in FY 2026.

iii. Advice responding to industry petitions to reduce or eliminate required recycled content requirements (similar to the level provided under current RCW 70A.245), by type of container and product, starting FY 2024, and possible representation before the PCHB for appeals from Ecology's decisions on petitions.



For the new deposit return program for beverage containers (Sections 301 to 320):

- i. Advice on complex rulemaking in FY 2024, FY 2025, and first part of FY 2026. Subjects include Deposit Return Organization (DRO) fee structure, plan content, annual report content, education and outreach requirements, convenience standards, additional refund value for NGOs and low income; labels; exemptions for some containers.
- ii. Advice and representation in support of Ecology’s enforcement under Section 319 to ensure beverage distributor participation in DRO plan and DRO compliance such as registration and annual fee payments starting 2024, compliance with post-consumer recycled content requirements, and addressing possible DRO appeals to the Pollution Control Hearings Board.

Ecology will be billed for non-Seattle rates by AGO’s ECY division.

FY2024: \$71,000 for 0.28 AAG and 0.14 LA.  
 FY2025: \$71,000 for 0.28 AAG and 0.14 LA.  
 FY2026: \$61,000 for 0.24 AAG and 0.12 LA and for each FY thereafter.

The AGO Licensing and Administrative Law Division (LAL) has reviewed this bill and determined it will not significantly increase or decrease the division’s workload in representing the Liquor and Cannabis Board (LCB), because it imposes limited specific obligations on the LCB. LCB has no direct enforcement authority under the bill, and this fiscal note assumes that the LCB will not adopt rules creating direct enforcement obligations. If it should do so, this fiscal note will need to be revised.

LAL will provide advice to LCB on the adoption of rules necessary to implement HB 1131. LAL assumes that LCB will adopt rules that leave enforcement of any provisions to the Department of Ecology, consistent with Sec. 212 of the proposed legislation.

Additionally, LAL assumes there will be some, limited need for legal services as LCB provides recommendations and coordination to Ecology, consistent with Sec. 209. New legal services are nominal, and costs are not included in this request.

The AGO LAL Division has reviewed this bill and determined it will not significantly increase or decrease the division’s workload in representing the Environmental and Land Use Hearings Office. New legal services are nominal, and costs are not included in this request.

The AGO LAL Division has reviewed this bill and determined it will not significantly increase or decrease the division’s workload in representing the Pollution Control Hearings Board (PCHB). While the bill will likely increase appeals to the PCHB, new legal services are nominal, and costs are not included in this request.

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
405-1	Legal Services Revolving Account	State	71,000	71,000	142,000	122,000	122,000
<b>Total \$</b>			71,000	71,000	142,000	122,000	122,000

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.5	0.5	0.5	0.4	0.4
A-Salaries and Wages	47,000	47,000	94,000	82,000	82,000
B-Employee Benefits	16,000	16,000	32,000	26,000	26,000
E-Goods and Other Services	8,000	8,000	16,000	14,000	14,000
<b>Total \$</b>	71,000	71,000	142,000	122,000	122,000

**III. C - Operating FTE Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Assistant Attorney General	118,700	0.3	0.3	0.3	0.2	0.2
Legal Assistant 3	55,872	0.1	0.1	0.1	0.1	0.1
Management Analyst 5	91,524	0.1	0.1	0.1	0.1	0.1
<b>Total FTEs</b>		0.5	0.5	0.5	0.4	0.4

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

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Ecology Division (ECY)	71,000	71,000	142,000	122,000	122,000
<b>Total \$</b>	71,000	71,000	142,000	122,000	122,000

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

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

NONE

**IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5154 SB	<b>Title:</b> Solid waste management	<b>Agency:</b> 195-Liquor and Cannabis Board
-----------------------------	--------------------------------------	--

## 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: Greg Vogel	Phone: 360-786-7413	Date: 01/06/2023
Agency Preparation: Colin O Neill	Phone: (360) 664-4552	Date: 01/12/2023
Agency Approval: Aaron Hanson	Phone: 360-664-1701	Date: 01/12/2023
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 01/13/2023

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

#### Part One - Providing for Producer Responsibility in the Management of Packaging and Paper Products

Section 101(7): It is the intent of the legislature to require that extended producer responsibility programs, including the achievement of recycling rates, are implemented by and for producers of consumer packaging and paper products in a manner that involves producers in material management from design concept to end-of-life. These programs incentivize innovation and research to develop more efficient recycling technologies and minimize environmental impacts of the packaging and paper products.

#### Part Two: Postconsumer Recycled Content Requirements

Section 201(18a)(vii) adds "Cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products subject to the rules adopted by the liquor and cannabis board under chapter 69.50 RCW that are contained in or packaged in plastic containers or packaging" to the definition of "Postconsumer recycled content product" or "PCRC product."

#### Section 203(1):

(a) By January 1, 2024, and each January 1st thereafter, a producer responsibility organization under chapter 70A.--- RCW (the new chapter created in section 601 of this act) that represents producers who offers for sale, sells, or distributes in or into Washington PCRC products must register with the department on behalf of each producer registered with the producer responsibility organization with sale or distribution of PCRC products in or into Washington.

(b) The registration information submitted under (a) of this subsection must include a list of the producers of PCRC products and the associated brand names of the PCRC products represented in the registration submittal.

Section 203(2h): Beginning January 1, 2025, producers of Washington cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products subject to the rules adopted by the liquor and cannabis board under chapter 69.50 RCW that are contained in or packaged in plastic containers or packaging must meet minimum PCRC requirements established under section 209 of this act.

#### Section 203(3a):

In addition to the registration information submitted under subsection (1) of this section, each producer of a PCRC product must annually report PCRC to the producer responsibility organization with which it is registered, beginning on the following dates:

(viii) February 1, 2027, for cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products subject to the rules adopted by the liquor and cannabis board under chapter 69.50 RCW that are contained in or packaged in plastic containers or packaging.

#### Section 209: new requirements for PCRC for cannabis packaging

(1) A producer of cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products that are produced, processed, and sold pursuant to chapter 69.50 RCW and that are contained in or packaged in plastic containers or packaging must meet the following annual minimum postconsumer recycled content percentage on average for the total quantity of covered products, by weight, that are sold, offered for sale, or distributed in or into Washington by the producer effective:

- (a) January 1, 2025, through December 31, 2030: No less than 25 percent postconsumer recycled content plastic by weight;
- (b) Beginning January 1, 2031: No less than 50 percent postconsumer recycled content plastic by weight.

(2)(a) The department must consult with the liquor and cannabis board in the implementation and enforcement of this section, and all registration, reporting, and temporary exclusion or rate adjustment petitions related to products subject to the requirements of this section.

(2)(b) The liquor and cannabis board may recommend that the department adopt changes by rule to the timelines or postconsumer-recycled content requirements of this section in order to address packaging integrity, safety, or other packaging needs related to the implementation of chapter 69.50 RCW with respect to products subject to the requirements of this section. The department may adopt rules to accord with recommendations made by the liquor and cannabis board under this section.

(3) This section applies to a person licensed under RCW 69.50.325 as a cannabis producer, cannabis processor, or as both a cannabis producer and cannabis processor when the person meets the definition of producer in this chapter.

Section 503(1c)(ii): In addition to the packaging requirements adopted by the board by rule under (c)(i) of this subsection or RCW 69.50.345, the postconsumer recycled content requirements of section 209 of this act apply to the packaging of cannabis, usable cannabis, cannabis concentrates, and cannabis-infused products. The board may recommend to the department of ecology changes to the requirements of section 209(1) of this act, consistent with section 209(2) of this act.

## **II. B - Cash receipts Impact**

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

## **II. C - Expenditures**

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

No fiscal impact as the agency is not tasked with the enforcement of the provisions of this bill, and any rulemaking is likely to be minimal.

## **Part III: Expenditure Detail**

### **III. A - Operating Budget Expenditures**

NONE

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

NONE

**III. C - Operating FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals 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**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

## **Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5154 SB	<b>Title:</b> Solid waste management	<b>Agency:</b> 215-Utilities and Transportation Commission
-----------------------------	--------------------------------------	--

## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Public Service Revolving Account-State 111-1				456,405	
<b>Total \$</b>				456,405	

### Estimated Operating Expenditures from:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.4	0.5	0.4	2.0	0.0
<b>Account</b>					
Public Service Revolving Account-State 111-1	59,348	70,359	129,707	473,502	11,398
<b>Total \$</b>	59,348	70,359	129,707	473,502	11,398

### 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: Greg Vogel	Phone: 360-786-7413	Date: 01/06/2023
Agency Preparation: Amy Andrews	Phone: 360-481-1335	Date: 01/12/2023
Agency Approval: Amy Andrews	Phone: 360-481-1335	Date: 01/12/2023
OFM Review: Tiffany West	Phone: (360) 890-2653	Date: 01/17/2023

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

This bill creates a consumer packaging producer responsibility program to facilitate the State's goal of reaching 90% recycling rate for consumer packaging sold in the state by 2035. The program would be responsible for the collection, processing, and environmental impact mitigation of designated covered materials, and recycling outreach and education programs.

Section 103 establishes Producer Responsibility Organizations (PROs).

(5) Beginning July 1, 2025, each PRO will submit a plan consistent with the requirements of the act.

Section 104 directs Dept. of Ecology (DOE) to determine annually the costs to implement, administer and enforce this bill and set an annual fee to be paid by each PRO that is adequate to cover those costs.

Section 105 (3)(b) directs the commission to review and submit comments to DOE on the Statewide Needs Assessment.

Section 106 (3) directs the commission to participate in the consultation process to PROs on the plan required in Section 103, including:

- (a) Quarterly meetings with the advisory council throughout plan development;
- (b) Consultation on the base cost formulas to be used for calculating per unit reimbursement rates to government agencies for curbside collection services;
- (c) Consultation on the reimbursement rates to be used for any services other than curbside collection to be carried out by government agencies;
- (d) Consultation on the service agreement template and any other forms, contracts, or documents outlining the terms and conditions for reimbursement to government agencies for services delivered in accordance with this act;
- (e) Prudency review of base cost formulas proposed to be used for calculating reimbursement rates for government agencies as described in section 115.
- (f) Opportunity to provide comment on the plan required in Section 103 30 days prior to the plan being submitted.

Section 112 (1) requires a PRO to fund all activities required by the chapter, including the cost of collection of covered materials.

Section 113 requires a PRO to fund activities to make convenient collection services available for every jurisdiction in which covered materials are sold or supplied.

(1)(a) In areas where curbside garbage collection under a commission certificate is provided.

(1)(b) In areas where curbside garbage collection under a commission certificate is not currently provided, free and equitable access to permanent collection facilities must be provided.

Subsection (3)(a) requires each PRO to establish a statewide list of covered products designated for collection.

Section 114 (3) requires that curbside collection of covered products in areas served by companies regulated by the commission must be done by a company holding a certificate issued by the commission.

In Section 116 (1), a PRO must provide reimbursement to a company granted a certificate by the commission in accordance with the rates approved by the commission, including all taxes and fees that would otherwise be charged to residential customers directly or indirectly for recycling service.

Section 506 provides that nothing in this act changes or limits the authority of the commission to regulate collection of solid waste including curbside collection of residential recyclable materials, in accordance with RCW 81.77.



Section 404 renumbers and amends 81.77.030:

(f) adding commission review of PRO reimbursement of regulated service providers.

(g) adding compliance with PRO plans as part of the requirement to comply with local comprehensive solid waste management plans.

Section 405 amends 81.77.040 to include compliance with PRO plans to meet the requirements of chapter 70A created in Section 601 of this act.

Section 406 amends 81.77.160 (1)(b) to include all known and measurable costs related to implementation of services designated by a PRO in an approved plan.

Section 407 amends 81.77.185 (1) to exclude covered products collected under an approved PRO plan from revenue sharing agreements.

Section 408 amends 81.04 by adding a new section stating that upon request from a PRO, the commission must conduct a prudency review of base cost formulas proposed to be used for calculating reimbursement rates for government entities, consistent with the requirements applicable to the consultation process specified in Section 106(3) of this act.

## II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

Work on the prudency reviews in Sections 106 and 408 of the bill is assumed to be initially paid from the Public Service Revolving Account (Fund 111) which would then be reimbursed by Department of Ecology from the Responsible Packaging Management Account created in Section 128 through an interagency agreement.

The commission assumes the cost of these prudency reviews would result in a reimbursement of \$456,405 in FY27.

## II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

### Simple Rulemaking

The UTC assumes Sections 106, 404 and 406 require a simple rulemaking to update WAC 480-07 and 480-70 to add terms and align current commission rules with the language of this bill, and to establish processes for receiving and completing prudency reviews, including types of information to be filed and format.

FY24 One-time expenditure \$38,292

(Administrative Law Judge, 0.06 FTE; Director Regulatory Services, 0.02 FTE; Deputy Director | Regulatory Services, 0.02 FTE; Policy Advisor, 0.02 FTE; Deputy Asst. Director | Regulatory Services, 0.02; Regulatory Analyst 2, 0.03 FTE; Regulatory Analyst 3, 0.02 FTE)

### Department of Ecology Rulemaking

UTC assumes involvement with the development of EPR program rules lead by Ecology. Based on lead agency assumptions, the rulemaking would commence in FY24 and conclude in FY25. UTC assumes a similar level of participation to inhouse rulemakings, to be shared by Policy and Regulatory Services staff equally.

FY24/25 One-time Expenditure \$19,316

(Director Regulatory Services, 0.02 FTE; Policy Adviser, 0.04 FTE; Director Administrative Law & Policy, 0.02 FTE; Regulatory Analyst 3, 0.04 FTE)

### Comments to Department of Ecology

UTC assumes section 105 requires the commission to provide comments to Dept. of Ecology on the Statewide Needs Assessment due in July 2025.

#### FY25 One-time Expenditure \$49,303

(Commissioner, 0.02 FTE; Directory, Legislative, 0.02 FTE; Assistant Director, Policy, 0.04 FTE; Director Regulatory Services, 0.02 FTE; Deputy Director Regulatory Services, 0.02 FTE; Policy Adviser, 0.08 FTE; Regulatory Analyst 3, 0.11 FTE)

#### Advisory Council Participation

Section 106 requires the commission to participate on the Advisory Council, which will convene in January 2024 (FY24) and meet quarterly through 2026, then twice yearly. Estimate of 20 hours per meeting, to be shared equally between Policy Division and Regulatory Services Division.

#### On-going Expenditures:

FY24-FY26 \$11,398 per year

(Policy Advisor, 0.04 FTE; Regulatory Analyst 3, 0.04 FTE)

FY27-FY29 \$5,699 per year

(Policy Advisor, 0.02 FTE; Regulatory Analyst 3, 0.02 FTE)

#### Prudency Reviews (Section 106 and 408)

Section 116 states that PROs will reimburse companies under commission jurisdiction at current tariff rates. This would include service to cities that do not provide their own service.

The commission currently reviews regulated recycling businesses as part of its normal rate review process. Prudency reviews of base cost formulas to reimburse cities are not part of the commission's current workload and therefore assumes funding from the Responsible Packaging Management account created in Section 128 of this act.

Current rate reviews that examine cost of service require approximately 160 hours to complete. Although "prudency" is not defined in this bill, Staff assumes prudency reviews for each base cost formula will not be as in-depth and would only require 40 hours each, including administrative processing time, provided all pertinent information is provided at the time of review.

The lead agency assumes there would be three PROs registering in 2024, and therefore three plans that must be reviewed under Section 106.

The commission currently regulates approximately 52 solid waste collection companies in territories that roughly match the 39 county boundaries. There would not necessarily be cities in every county contracting for these services. There are approximately 30 cities statewide that provide service directly, and approximately 185 cities that provide service through a contract. It is not known how many actual reviews of base cost formulas would be required, as potentially each city providing collection services could utilize a different base cost formula, and further, the formulas could be different for each type of material collected. However, staff recognizes that one base cost formula for a single city may apply to all plans.

The commission assumes it will conduct prudency reviews of the base cost formulas used to reimburse each city providing the collection services in this bill either directly, or by contract.

For purposes of this fiscal analysis, we assume 200 separate reviews required under Section 106 for the initial plans due July 1, 2026, for implementation July 1, 2027. Although the cycle of reviews could repeat due to changes in cost factors, it is not known how often this would occur. Additionally, Section 408 directs the commission to conduct a review of base cost formulae at the request of a PRO. Again, it is not known how often this may occur. Section 108 states that the initial plan will be good for 3 years, and subsequent plans will be good for five years. The next plan must be submitted for approval on

year before expiration of the current plan. For purposes of this analysis, it is assumed that 200 analyses will be required in FY27.

On-going Expenditure of \$456,405 every three years starting in FY27 (Regulatory Analyst 3, 3.35 FTE; Records Management Specialist, 0.48 FTE).

Update to Cost Assessment Questionnaire

Section 405 requires the inclusion of producer responsibility programs in solid waste management plans and would require the commission to update its cost assessment questionnaire to account for that inclusion. This would be minimal additional work and could be absorbed into current workload.

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
111-1	Public Service Revolving Account	State	59,348	70,359	129,707	473,502	11,398
<b>Total \$</b>			59,348	70,359	129,707	473,502	11,398

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.4	0.5	0.4	2.0	0.0
A-Salaries and Wages	38,985	47,863	86,848	349,709	7,754
B-Employee Benefits	13,645	16,753	30,398	122,398	2,714
C-Professional Service Contracts					
E-Goods and Other Services	6,718	5,743	12,461	1,395	930
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-					
<b>Total \$</b>	59,348	70,359	129,707	473,502	11,398

#### III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Law Judge	119,088	0.1		0.0		
Asst. Director, Policy	110,064	0.0	0.0	0.0		
Commissioner	168,012		0.0	0.0		
Deputy Asst. Director   Regulatory Services	101,136	0.0		0.0		
Deputy Director   Regulatory Services	117,996	0.0	0.0	0.0		
Director, Administrative Law & Policy	134,772	0.0	0.0	0.0		
Director, Legislative	120,084		0.0	0.0		
Director, Regulatory Services	134,532	0.0	0.0	0.0		
Policy Advisor	100,008	0.1	0.1	0.1	0.0	0.0
Records Management Specialist	49,404				0.2	
Regulatory Analyst 2	82,896	0.0		0.0		
Regulatory Analyst 3	93,840	0.1	0.2	0.1	1.7	0.0
<b>Total FTEs</b>		0.4	0.5	0.4	2.0	0.0

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

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

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

NONE

**IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

Section 106 allows for commission review of base cost formulas. Appropriate terms and definitions would need to be included in WAC 480-70 and 480-07; filing requirements and processes added to 480-07; review process added to 480-70.

Section 404 amends 81.77.030 to include review of PRO reimbursement of regulated curbside collection and would require updates to WAC 480-70 to ensure rules conform to these changes.

Section 406 amends 81.77.160 pass through rates and would require changes to WAC 480-70 and 480-07 to identify filing process.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5154 SB	<b>Title:</b> Solid waste management	<b>Agency:</b> 303-Department of Health
-----------------------------	--------------------------------------	---

## 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: Greg Vogel	Phone: 360-786-7413	Date: 01/06/2023
Agency Preparation: Donna Compton	Phone: 360-236-4538	Date: 01/12/2023
Agency Approval: Kristin Bettridge	Phone: 3607911657	Date: 01/12/2023
OFM Review: Breann Boggs	Phone: (360) 485-5716	Date: 01/16/2023

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

This bill requires the Department of Ecology (Ecology) to consult with the Department of Health (department) for purposes of considering the potential for integration of collection infrastructure under chapter 69.48 RCW with the collection infrastructure of other state programs.

For the purpose of this fiscal note, the department estimates staff costs to be minimal. Existing staff will accomplish the work required for consulting with Ecology within their normal workload. No fiscal impact to the department.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

The bill does not create any new fees or revenue for the Department of Health.

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

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

NONE

**III. C - Operating FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals 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

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

## **Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5154 SB	<b>Title:</b> Solid waste management	<b>Agency:</b> 461-Department of Ecology
-----------------------------	--------------------------------------	--

## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Recycled Content Account-Non-Appropriated 25R-6	(482,000)	(482,000)	(964,000)	(964,000)	(964,000)
Deposit Return Organization Program Account-Non-Appropriated NEW-6				768,145	734,814
Responsible Packaging Management Account-Non-Appropriated NEW-6		1,730,537	1,730,537	1,764,661	1,101,975
<b>Total \$</b>	(482,000)	1,248,537	766,537	1,568,806	872,789

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	7.7	12.3	10.0	4.7	2.3
<b>Account</b>					
Model Toxics Control Operating Account-State 23P-1	1,839,972	1,153,702	2,993,674	304,475	855,046
Recycled Content Account-Non-Appropriated 25R-6	(482,000)	(482,000)	(964,000)	(964,000)	(964,000)
Deposit Return Organization Program Account-Non-Appropriated NEW-6	0	0	0	768,145	734,814
Responsible Packaging Management Account-Non-Appropriated NEW-6	0	1,730,537	1,730,537	1,764,661	1,101,975
<b>Total \$</b>	1,357,972	2,402,239	3,760,211	1,873,281	1,727,835

### 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: Greg Vogel	Phone: 360-786-7413	Date: 01/06/2023
Agency Preparation: My-Hanh Mai	Phone: 360-742-6931	Date: 01/16/2023
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 01/16/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/24/2023

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

Under current law, Chapter 70A.205 RCW, state, county, and city governments are required to provide for safe waste management, including waste reduction and source separation strategies and to process and dispose of remaining wastes in a manner that is environmentally safe and economically sound.

Local governments have the responsibility to provide access to recycling services for their residents, through curbside services and/or drop boxes. Department of Ecology (Ecology) provides technical assistance to local jurisdictions as they develop solid waste management plans that identify the materials considered recyclable (in the curbside bin or drop box) in their jurisdiction. Ecology also provides grant funding to support local government programs.

Under current law, Chapter 81.77 RCW, the Utilities and Transportation Commission (UTC) regulates solid waste collection companies that operate in unincorporated areas and in cities and towns that do not choose to contract for or provide their own collection services. Solid waste collection companies must obtain a certificate from the UTC to operate. The UTC reviews and approves collection rates charged by solid waste collection companies to these areas.

Under current law, Chapter 70A.245 RCW, producers of specific plastic covered products, including plastic beverage containers, household cleaning products, personal care products, and plastic trash bags, are required to meet specific post-consumer recycled content (PCRC) requirements. Rulemaking is currently underway and is expected to be adopted by October 2023.

This bill would:

- Create an Extended Producer Responsibility (EPR) program for Packaging and Printed Paper (PPP), similar to SB 5697 that was introduced in the 2022 legislative session. This program would be operated by a producer responsibility organization (PRO) with Ecology oversight and enforcement.
- Remove the oversight responsibility from Ecology for certain PCRC requirements in Chapter 70A.245 RCW for plastic beverage containers, household cleaning products, personal care products. PCRC responsibilities for those products and additional plastic products would be added to the PCRC duties of the PRO for their member producers.
- Add plastic products to the PCRC requirements in Chapter 70A.245 RCW for Ecology oversight, in addition to trash bags. Those products would be required, upon request, to provide a certificate of compliance.
- Create a deposit return system (DRS) for qualified beverage containers to be operated by a distributor responsibility organization (DRO) on behalf of beverage distributors.

#### PART ONE: EXTENDED PRODUCER RESPONSIBILITY PROGRAM FOR PACKAGING AND PRINTED PAPER

##### Section 103 – Producer Responsibility Organization (PRO) Duties

Beginning January 15, 2024, producers of covered products would be required to join a PRO, or they would not be able to sell covered products in Washington State. The PROs would be required to register with Ecology and submit specific information as prescribed in the bill by January 15, 2024, and annually thereafter. By June 30, 2024, and annually thereafter, the PROs would submit an annual payment to cover Ecology costs to implement, administer, and enforce this chapter, for the following fiscal year.

The PROs would submit a program plan to Ecology by July 1, 2026, or within six months after rule adoption, whichever is later. PROs registered with Ecology as of January 15, 2026, would implement the approved plan by July 1, 2027, or within six months of plan approval, whichever is later, and submit an annual report for the prior calendar year by July 1, 2028, and annually thereafter. PROs registered with Ecology after January 15, 2026, would be required to submit a plan within one year of registration, implement the plan within six months of approval, and submit an annual report by July 1st, beginning the first year after plan implementation.

#### Section 104 – Department Duties

By April 1, 2024, and annually thereafter, Ecology would be required to identify the annual costs to implement, administer, and enforce this chapter in the next fiscal year. Until rules are adopted to equitably determine fee amounts for the PROs in 2026, Ecology would be required to issue a general order and send notice to the PROs of their fee amounts due consistent with the general order.

Ecology would be required to review PRO plans and annual reports within 120 days of receipt and make them available for public review and comment for at least 30 days. The bill would authorize Ecology to adopt rules as necessary to implement, administer, and enforce this chapter. Rulemaking authority is also provided beginning in January 2029, and no more frequently than every five years to require PROs to provide additional collection service, including at public places and official gatherings.

#### Section 105 – Rate Study and Statewide Needs Assessment

Ecology would be required to conduct a performance rate study (due April 1, 2024) and a statewide needs assessment (due July 1, 2025). These studies would be conducted by a third-party consultant selected by Ecology and funded by the PROs.

The PROs and Advisory Council (created in section 121) would have an opportunity to review and comment on the draft performance rates study prior to its completion. This study may be updated once every five years.

The final scope of the statewide needs assessment would be based on comments and recommendations from the Utilities and Transportation Commission (UTC), PROs, and Advisory Council. The needs assessment would be informed by the findings and recommendations of the reuse and recycling rate study conducted by Ecology’s consultant and published in January 2023 as well as the approved PRO reuse and recycling rate targets.

The statewide needs assessment would provide information on statewide capacity, costs, gaps and needs of recycling service; education and outreach; available collection, transport, processing capacity and infrastructure. The needs assessment would also provide information for PRO funding requirements; costs and reimbursement rates for governments; potential service methods recommended by PROs during the study scoping process; cost factors and variables to be considered in the base cost formula to be used for local government reimbursement; and criteria to determine whether covered products are reusable, recyclable, or compostable. It would also evaluate social justice needs for the state’s recycling system, assess how covered products relate to litter and marine debris and prevention options, and compile information about the presence of toxic substances in covered products and the impact on reuse, recycling, and composting systems. Ecology would be able to update the needs assessment at the request of the Advisory Council, PROs, and UTC to inform development of PRO plans.

#### Section 106 – Plan Participation Obligation – Stakeholder Consultation

Producers would be required to participate in a plan. A PRO would be required to actively conduct stakeholder consultation before submitting a plan to Ecology, including the Advisory Council (quarterly meetings), UTC, and other stakeholders. Consultation would be required to be offered in various formats and languages to overburdened communities and vulnerable populations. The consultation process would include all elements of the recycling system, including base cost formulas for government reimbursement. UTC would conduct a prudency review of the PRO proposed base cost formulas for solid waste collection service reimbursement. All comments must be documented by the PRO.

#### Section 107 – Plan Contents – Overview

The PRO plan would contain information on: PRO board membership; covered products/producers; producer fees/eco-modulation fees; waste prevention/reduction; use and investment in existing infrastructure; recycling and reuse rates; list of covered products; collection services and methods; convenience standards; service provider information; material recovery facilities (MRFs) and processors; education and outreach; residuals; how to ensure responsible management practices; base cost formulas for government reimbursement; contractual relationships; covered product contamination at compost facilities; stakeholder consultation; dispute resolution; coordination with other PROs; and anything

added in rule.

#### Section 108 – Plan Approval, Updates, and Revisions

PRO plans would be required to cover five years of implementation; the first plan update occurs in year three, and thereafter every five years. PRO plans would be submitted one year in advance of the expiration date. If the reuse and recycling rate targets set in the PRO plans were not met, plans would include an independent evaluation on how to improve rates. Stakeholder consultation would be required for each plan update or revision. The PRO could choose to revise plans and Ecology could request plan revisions outside of the plan revision schedule.

#### Section 109 – Contingency plan

A PRO would be required to submit a contingency plan to Ecology demonstrating how the activities in the plan would continue to be carried out by some other entity, if needed. Ecology would be required to follow the same process and timelines for reviewing and approving the contingency plan as for the PRO plan.

#### Section 110 – Collection and Management

A PRO would be required to document management, and provide collection of covered products, measure collection, reuse, recycling, and identify MRF locations. The PRO would have to submit a third-party assessment of proposed use of advanced technology, which Ecology would have to approve before it could count toward recycling. The PRO, MRFs, and other processors would be required to measure and annually report to Ecology (with 3rd party verification): tons received, inbound and outbound quality and contamination, residuals, emissions, and labor metrics. Scrap metal recyclers would be exempt from reporting requirements unless they accept materials from a PRO.

#### Section 111 – Performance Rates

By July 1, 2024, any registered PRO would be required to submit to Ecology proposed performance rates for covered products to be achieved by the ninth year from the effective date of this section. These rates would be calculated based on specific formulas in the bill.

#### Section 112 – Funding Requirements

A PRO would be required to fully fund all activities and may not use a non-reimbursable point-of-sale fee. They would allow producers of newspapers and magazines to satisfy their obligations through advertisements in their publications. A PRO would base the funding on the cost of managing material categories, or a similar approach, and use eco-modulated fees for producer funding.

#### Section 113 – Convenience Standards

A PRO would be required to ensure convenient collection services for covered products where they are sold or supplied in the state. Curbside collection would be provided to single and multi-family residents where curbside garbage service is provided. Alternative collection services would be authorized.

#### Section 114 – Government Agencies - Authority to Collect Covered Products

The services provided by a county, city or town under UTC authority may continue. A county, city, or town would be allowed to choose to not exercise its contracting authority, and services would be provided under UTC authority. The PROs would be required to reimburse governments delivering services. Governments would be able to collect additional materials than those in the plan but would not be reimbursed for those materials. A city, town, or county may not enact an ordinance requiring producers to provide additional services.

#### Section 115 – Cost Reimbursement for Services Provided by Government Agencies

A PRO would be required to provide reimbursement to local governments for curbside or other collection service. Reimbursement rates would be calculated using the base cost formulas negotiated in the stakeholder consultation process and established in the PRO's approved plan.

#### Section 116 – Cost Reimbursement for Services Regulated by the UTC

A PRO would be required to reimburse a UTC certificated company in accordance with the rates approved by the UTC. Services would be offered in all places curbside garbage collection service is provided, including single and multi-family residences, and include all covered products designated for curbside collection.

#### Section 117 – Service Provider Agreement

A PRO would be required to enter into contracts that are open, competitive, and fair and meet specific requirements.

#### Section 118 – Infrastructure Investments

A PRO would be required to fund and support reuse and recycling infrastructure and market development in Washington State and report on investments in annual reports to Ecology.

#### Section 119 – Education and Outreach

A PRO plan would be required to implement an education and outreach component that includes requirements for messaging to reach diverse audiences, statewide campaigns, dealing with customer questions, materials, effectiveness evaluation, and coordinate with others carrying out education and outreach.

#### Section 120 – Annual Report

A PRO would be required to submit an annual report, starting July 1, 2028, and annually thereafter, for the prior calendar year. The reports would describe: the PRO board; producers, brands, list of covered products designated for collection; weight of covered products reused, recycled, sent for energy recovery, landfilled, and other disposal methods; final destination of recycled materials; reuse/recycling by material category; quantity of products designed to be reused, recycled or composted; contamination rates; convenience metrics; location of curbside services; infrastructure investments; education and outreach activities and evaluation; actions to address life-cycle and design; assess greenhouse gas emissions; Advisory Council engagement; total cost of plan implementation; and anything added in rule. All nonfinancial information submitted in the annual report would be independently audited and verified.

#### Section 121 – Advisory Council

By January 1, 2024, Ecology would be required to establish the 23-member council with representatives as prescribed in the bill. The council would meet quarterly, at minimum, in the first three years. Ecology would be required to provide staff support and facilitation necessary for the council to carry out its duties. Ecology would be allowed to select an impartial, third-party facilitator to provide support to the council.

The Council would be required to make recommendations on the reuse and recycling rate study, the statewide needs assessment, PRO consultation and plan and annual reports, rulemaking, and Ecology's reviews of plans and annual reports. Council members that are representatives of tribes or tribal and indigenous services, or community-based and environmental nonprofit organizations would be eligible for reimbursements.

Section 123 would prohibit a PRO from using funds for paying penalty, appeal of orders or penalties, litigation with the state, funding lobbying or advertising related to lobbying.

#### Section 124 – Enforcement Authority

Ecology would be authorized to impose a civil penalty of up to \$1,000 per violation per day for the first violation, and up to \$10,000 for second and subsequent violation. This section would authorize Ecology to issue orders, revoke the PRO plan, require plan revision, and require more reporting.

#### Section 125 – Truth in Labeling

Beginning January 1, 2027, the distribution, sale, or offering to sell any covered product that makes deceptive claims about recyclability of the product or its packaging, based on the definition of recyclable in this bill, and on covered products included for recycling in approved PRO plans, with certain exceptions. Beginning July 1, 2023, a city, town, or county would be prohibited from enacting an ordinance restricting the distribution or sale of covered products displaying a symbol or statement indicating recyclability if the covered product is designated for collection in a PRO plan, required to display the

label by state or federal law, part of a widely adopted third-party labeling system, or using a chasing arrows symbol in combination with a 45 degree angle line.

#### Section 126 – Packaging registration clearinghouse

Ecology would be authorized to participate in the development and ongoing operation of a regional or multistate clearinghouse for the purpose of facilitating implementation of state laws and regulations on packaging and paper.

#### Section 128 – Account

This section would create the Responsible Packaging Management Account. All receipts collected by Ecology would be deposited in this account for Ecology's costs for implementation, administration, and enforcement of the chapter created in Section 601.

#### Section 129 – Petition for Exclusion of Certain Products

Ecology would be authorized to consider excluding certain medical products initiated by Ecology or upon a petition by a producer or PRO. The petition process is only certain medical products and distinct from PCRC petition for adjustments and exclusions.

### PART TWO: POSTCONSUMER RECYCLED CONTENT (PCRC) REQUIREMENTS

#### Section 203 - PCRC Requirements for PCRC Products

The PRO would be required to register with Ecology on behalf of each producer required to meet PCRC requirements. This section would provide the dates for which the covered products would be required to meet the minimum postconsumer recycled requirements.

#### Sections 204 - 209

These sections would provide the annual minimum PCRC percentages and their effective dates for the covered products in section 203 (plastic beverage containers; household cleaning products and personal care products; plastic tubs for food products; single use plastic cups; thermoform plastic containers; and cannabis packaging). Section 209 would require Ecology to consult with the Liquor and Cannabis Board (LCB) in the implementation and enforcement of the PCRC requirements for cannabis packaging.

#### Section 210 - PCRC Reporting by PROs

A PRO would be required to pay an annual fee to Ecology as specified in Part I. Beginning April 1, 2024, a PRO would submit an annual PCRC report to Ecology. The annual report may include petition for an exclusion or adjustment to the minimum PCRC requirements on behalf of their members. Ecology would be required to review and determine whether to approve PCRC reports, provide reasons for not approving the report so the PRO could submit a revised report, and post the approved reports on its website.

#### Section 211 – Adjustments and Temporary Exclusions to PCRC Rates

Ecology would be authorized to review and determine whether to adjust the minimum PCRC percentage for the following year, considering several factors. Ecology would have to temporarily exclude a product from PCRC requirements when a PRO has demonstrated in the annual report that the producer can't meet the rate and comply with federal law, or it is not technologically feasible.

#### Section 212 – Administrative Role and Enforcement by the Department

The PRO would be authorized to collect penalties from a producer for failure to pay fees, register, report, or achieve PCRC rates and remit them to Ecology. Ecology would be authorized to determine the penalty amount and reduce the amount, considering several factors, or require a corrective action plan in lieu of a penalty.

#### Section 214 - Rule-making Authority

Ecology would have authority write rules to implement, administer, and enforce the chapter.

#### Section 216 - 70A.245.020 Postconsumer Recycled Content

This section would require plastic pesticide containers, trash bags, plant pots and trays to meet PCRC rates. Ecology and the certified PCRC manufacturing industry may petition for PCRC rate adjustments.

#### Section 217 -70A.245.030 Producer Reporting Requirements (Certificates of Compliance under this bill)

This section would require certified PCRC producers develop certificate of compliance upon request. The certificate must be signed by an authorized official of the producer, kept on file for three years and furnished upon request.

#### Section 218 - 70A.245.040 Penalties for PCRC Requirements

Ecology would be authorized to impose a civil penalty of up to \$2,000 per violation per day for the first violation, and up to \$5,000 for second and \$10,000 for subsequent violations.

#### Section 219 - 70A.245.090 Department Duties

Ecology would be required to post PCRC information online. Ecology would be authorized to adopt rules to administer, implement, and enforce this chapter.

#### Section 220 – 70A.245.100 Account

This section would add Section 213 and Section 316 to the Recycling Enhancement Account.

#### Section 221 - 70A.245.120 Market Study

This section would add PCRC products subject to this chapter to the Plastic resin market study.

#### Section 222 – 70A.245.060 Trash Bag Labeling Requirements

This section would require trash bag labels to indicate the percent of PCRC in the trash bag.

Section 223 would add a new section to chapter 70A.245 RCW requiring plastic collection bins (roll carts) used for garbage or recycling to have 25 percent PCRC by January 1, 2024.

### PART THREE: DEPOSIT RETURN SYSTEM (DRS) FOR BEVERAGE CONTAINERS.

#### Section 304 – Distributor Responsibility Organization - Creation and Registration

Distributors of qualifying beverages would be required to join a Distributor Responsibility Organization (DRO), or independently fulfill the duties of a DRO. This would take effect four months after Ecology received the intent to operate a Deposit Return System (DRS) by the distributor or its representative. A DRO or independent distributor would be required to register, submit the required data in subsection (4)(a)(b) by January 15th of each year until annual reports are due, and submit an annual payment by December 31st of the same year of the initial registration, and annually thereafter. The annual payment would fund Ecology's work to administer this chapter and one-half of the costs for support and facilitation of the Advisory Council in section 121 and one-half of the costs for the performance rates study in section 105. This section would require the new DRS program to be implemented within two years after registration with Ecology.

#### Section 305 – Refund Value

This section would set the refund value for qualifying beverage containers at 10 cents. Ecology would be authorized to determine an additional premium refund value with input from the Advisory Council by rule.

#### Section 306 – Indication of Refund Value

The refund value would be required to be clearly indicated on every qualifying beverage container sold or offered for sale in the state.

### Section 307 – Department Duties

Ecology would be required to implement, administer, and enforce the chapter, and would be provided with rulemaking authority to do so. Rules would be adopted by 2026. By September 1st of each year after the DRO has notified Ecology of its intent to implement a DRS, Ecology would be required to prepare a workload analysis that identifies the projected annual costs of the agency to implement, administer, and enforce the chapter, including rulemaking.

Ecology would be required to review, amend, and approve plans; review annual reports and determine it meets requirements in section 311; and review DRO records to determine compliance. Ecology would be authorized to require the DRO to conduct an independent audit to determine refund rate accuracy. Ecology would be required to create and administer a curbside revenue augmentation fund for the first five years of the DRS program operation.

### Section 308 – Reuse and Recycling Performance Requirements

A DRO would be required to show that all qualifying beverage containers are reusable or recyclable by January 2031, calculate the reuse and recycling rates in annual report, and meet the performance requirements as prescribed.

### Section 309 – Deposit Return System Plan

A DRO would be required to submit a DRS plan to Ecology within 12 months after their registration approval. The plan would include specific details as prescribed in this section. The initial plan would be for three years. Within two years of implementation, the DRO would be required to submit an updated plan for the following five years. A DRO would be required to carry out a stakeholder consultation process prior to a plan submittal.

### Section 310 – Operation of Deposit Return System

The DRO would be required to provide at least 270 geographically convenient bulk drop-off sites at no cost to customers. The DRO would be required to track, verify, and report the responsible management of the qualifying beverage containers, meet human health and environmental protection standards, quality standards for recycled materials, and promote reuse, among other factors as described in this section. The DRO would have to submit a third-party assessment of proposed use of advanced technology, which Ecology would have to approve before it could count toward recycling.

### Section 311 – Reporting

The DRO would be required to submit the annual report to Ecology by July 1st one year after plan implementation.

### Section 312 – Unclaimed Refunds

This section would require 100 percent of unclaimed refunds be invested in operations and infrastructure supporting the reuse and recycling of qualifying beverage containers in Washington.

### Section 313 – Payment of Deposit for Collection Using Other Infrastructure and Service Provider Agreements

The DRO would be required to accept and pay the refund value for curbside beverage containers collected separately from curbside bin following standards approved by Ecology. Ecology would be required to consult with other state agencies on DRO reviews.

### Section 314 - DROP Account

This section would create a Deposit Return Organization Program Account in the custody of the state Treasury.

### Section 315 – Stakeholder Consultation

This section would require distributors to participate, implement, and fund a DRO plan. A DRO would be required to do stakeholder consultation on a number of issues before submitting plans to Ecology, including the Advisory Council.

### Section 316 - Education and Outreach

Each DRO plan would be required to include education and outreach activities that effectively reach diverse residents, are accessible, clear, and support the achievement of the performance rates. A DRO would coordinate with government entities and have a consistent messaging and statewide program.



### Section 317 - Contingency Plan

A DRO would be required to submit a contingency plan to Ecology demonstrating how the activities in the plan would continue to be carried out by some other entity, if needed.

### Section 319 – Civil Penalties

The DRO would be required to pay a ten-cent penalty for every unredeemed container under the performance requirements set in section 308(2). In addition to this penalty, Ecology would be authorized to impose a civil penalty up to \$1,000 per violation per day for the first violation, and up to \$10,000 per violation per day for the second and subsequent violation. This section would authorize Ecology to issue orders, revoke PRO plan, require plan revision, and require more reporting.

### Section 320 – Feasibility Study

Ecology would be required to contract for a feasibility study on convenience options for takeback programs in the state, use an independent contractor, and consult with the Department of Health for medicine take-back products. Policy recommendations would be due to the Legislature by December 1, 2025.

### Section 321 – Litter Tax Study

Ecology and the Department of Revenue (DOR) would be required to consult with the PRO and DRO on a litter tax study. By January 1, 2029, Ecology, in consultation with DOR, would be required to provide recommendations to the Legislature on the applicability of the litter tax being applied to covered products and qualifying beverage containers.

## PART FOUR: Amendments to Solid Waste Management Laws

Sections 410 to 416 would amend existing laws to provide Ecology the authority to require producers or distributors to register and submit data, reports, fees, and other information to the packaging registration clearinghouse (section 126), in lieu of submission to Ecology. The amended laws include: Toxics in Packaging Chapter 70A.222 RCW, Safer Products Washington Chapter 70A.350 RCW, Postconsumer Recycled Content Chapter 70A.245 RCW, Mercury-containing Lights Chapter 70A.230 RCW, Brake Friction Material Chapter 70A.340 RCW, and Anti-fouling boat paints Chapter RCW 70A.455, and the new chapter in Part 3 of this bill.

## II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

The cash receipts impact to Ecology under this bill is greater than \$50,000 beginning in FY 2024 and ongoing for the new fees established in sections 104, 216, and 307. Ecology assumes no penalty collections for the penalty authority established in sections 124, 218, and 319. Penalty revenue is unknown and therefore not estimated in this fiscal note.

### Fees (Sections 104, 216, and 304)

#### Responsible Packaging Management Account (RPMA)

Section 104 (2) would require Ecology to determine an annual fee (for the following year) to be paid by each producer responsibility organization (PRO) to adequately cover Ecology's implementation, administration, and enforcement costs for the chapters created in sections 601 and 602, in addition to the costs of the performance rates study and statewide needs assessment (section 105), and support and facilitation of the advisory council (section 121), by April 1, 2024, and annually thereafter.

Section 103 (4) would require PROs to submit an annual fee payment by June 30, 2024, annually thereafter, to cover Ecology's costs in section 104.

Ecology assumes the first fee receipt collections would be for FY 2025 (billed in FY 2024). Ecology assumes three PROs would be subject to the annual payment to support implementation of the EPR program and the PCRC requirements established in the chapter created in section 602. The annual fees would be allocated among the PROs based on each PRO's proportionate share of covered producers and/or weights of materials in products managed.

#### Estimated RPMA Revenue

FY 2025: \$1,730,537

FY 2026: \$1,069,452

FY 2027: \$695,209

FY 2028: \$480,467

FY 2029: \$621,508

#### Recycled Content Account (RCA)

Sections 216, 217, 218, and 219 would repeal significant portions of the current post-consumer recycled content (PCRC) requirements in Chapter 70A.245 RCW, including the annual fee invoiced to producers to cover Ecology's estimated operating costs.

Ecology assumes all workload and associated costs for administering Chapter 70A.245 RCW under current law would be eliminated.

#### Estimated RCA Revenue

FY 2024 and ongoing each FY thereafter: -\$482,000

#### Deposit Return Organization Program Account (DROPA)

Section 307 (2) would require Ecology to determine an annual fee (for the following year) to be paid by each distributor responsibility organization (DRO) to adequately cover Ecology's implementation, administration, and enforcement costs for the chapter created in section 603, in addition to one-half of the costs of the performance rates study (section 105), and support and facilitation of the advisory council (section 121), by September 1st of the year a DRO has notified Ecology of intent to implement a deposit return system under section 302, and annually thereafter.

Section 304 (5) would require DROs to submit an annual fee payment by December 31st of the year of initial registration, annually thereafter, to cover Ecology's costs in section 307.

Ecology assumes one DRO would submit an intent to operate a deposit return system on January 1, 2024. The first fee receipt collections would be for FY 2026 (billed in FY 2025). Ecology assumes one DRO would be subject to the annual payment to support implementation of the DRS program. If more than one DRO were to implement the requirements of section 304, annual fees would be allocated among the DROs based on each DRO's proportionate share of covered materials managed by weight.

For purposes of this fiscal note, Ecology assumes new or reductions in cash receipts are shown to match expenditures or reductions in expenditures by fiscal year consistent with the bill's intent.

#### Estimated DROPA Revenue

FY 2026: \$392,363

FY 2027: \$375,782

FY 2028: \$367,407

FY 2029: \$367,407

#### Penalties (Sections 124, 218, and 319)

Section 124 would provide authority for Ecology to assess penalties of up to \$1,000 per violation per day, and up to \$10,000 per violation per day for the second and each subsequent violation of the new chapters created in sections 601 and 602. Any penalty collections would be deposited into the RPMA.

Section 212 would subject a PRO out of compliance with the requirements of the chapter created in section 602 to the penalty provisions of section 124.

Section 218 would provide authority for Ecology to assess civil penalties of varying specified levels based on the number of violations of the provisions of Chapter 70A.245. Any penalty collections would be deposited into the Recycling Enhancement Account (REA).

Section 319 would provide authority for Ecology to assess penalties of up to \$1,000 per violation per day, and up to \$10,000 per violation per day for the second and each subsequent violation of the new chapters created in law. For purposes of this fiscal note, we assume it is the chapter created in section 603. Any penalty collections would be deposited into the REA.

Ecology would work with the PROs, DROs, and producers, when applicable, to bring them into compliance; Penalties are assumed to be limited, but unknown, and therefore are not estimated in this fiscal note.

## II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

The expenditure impact to Ecology under this bill is estimated to be greater than \$50,000 in Fiscal Years (FYs) 2024 and ongoing to implement the requirements of sections 102, 104, 105, 107, 110, 120, 121, 122, 124, 125, 126, 129, 201, 202, 203, 209, 210, 211, 212, 214, 215-223, 307, 320, and 321.

Ecology assumes the costs associated with rulemaking and other fee-funded activities would be funded one-time with MTCA – Operating in FY 2024 for the fee-eligible portions of parts I and II of the bill, and in FY 2024 and FY 2025 for the fee-eligible portions of part III. Ecology’s costs to implement the provisions of sections 320, 321, and the PCRC certification requirements in sections 215-223 are assumed to be funded with MTCA-Operating, because they would not be fee-eligible. MTCA supports the state’s responsibility for solid waste management, regulation, enforcement, technical assistance, and public education under chapter 70A.205 RCW.

Ecology assumes section 209 (PCRC for cannabis packaging) is intended to be included in one of the chapters established in 601 and 602, which would be funded by fee revenue in the Responsible Packaging Management Account (RPMA). Based on this assumption, costs related to section 209 starting in FY 2026 are estimated in the RPMA.

Estimates of agency costs are based on Ecology’s experience implementing extended producer responsibility (EPR) programs for electronics, mercury lights, photovoltaic modules, and paint.

Ecology’s fiscal impact estimates are also based on the experience of the British Columbia (BC) Ministry of Environment in the start-up and oversight of their EPR program for packaging and printed paper (PPP). There are three producer responsibility organizations (PROs) operating in British Columbia covering residential curbside PPP, beverage containers, and news media. There are 1,800 companies participating in the three PRO programs operating in BC for PPP. A similar number of PROs, producers, and brands would be anticipated in Washington for the program that would be established for PART I of this bill.

Section 307 (8) of this bill would have an indeterminate fiscal impact to Ecology. We do not have sufficient information to estimate the use of the curbside revenue augmentation fund or how we would administer it. The cash receipts, expenditures, and timing are indeterminate.

## PART ONE - EXTENDED PRODUCER RESPONSIBILITY (EPR) FOR PACKAGING & PAPER PRODUCTS AND PART TWO – POST CONSUMER RECYCLED CONTENT REQUIREMENTS

Administration/Oversight (Sections 104, 120,121, 122, 124, 125, 126, 129, 201, 202, 203, 210, 211, 212, 214):

Ecology assumes three producer responsibility organizations (PROs) would be established and register with Ecology. Ecology assumes 2,000 producers would be required to join a PRO. For this fiscal analysis, Ecology assumes 20 percent of these producers would require technical assistance to come into compliance during the initial start-up period (first three years) and that each year 100 producers would require ongoing technical assistance. Based on experience from EPR programs in BC, Ecology assumes compliance support to the PROs and producers would be needed. Technical assistance would include providing regulatory interpretations for producers and PROs regarding the requirements of this bill and notifying producers who have not registered with a PRO of their noncompliance status. Ecology would conduct enforcement actions when necessary to ensure producer compliance. Ecology assumes technical assistance would be ongoing, heavier in first three years and would reduce in the following years. Based on the BC program, ongoing enforcement would be required for the three PRO-operated programs and thousands of producers would be required to comply.

Beginning in FY 2024, Ecology would provide outreach and technical assistance to producers and PROs regarding the requirements of this bill including registration (required starting January 2024), determining agency annual workload cost (required by April 2024) for oversight of Part I and Part II of this bill, establishing a general order (until rule adoption) and invoicing PRO fee payments (due to Ecology June 2024) for costs to oversee Part I and Part II of this bill, reviewing the PRO proposed performance rates (due by July 2024), confidentiality requests, and enforcement efforts. Ecology would also provide technical assistance to solid waste service providers, processors, and local governments. Ecology would regularly consult with the advisory council, UTC, and the PROs on significant program efforts, the performance rate study, and the needs assessment.

Ecology would participate in each PRO stakeholder consultation effort providing technical assistance to PROs, attending public events and discussions, and reviewing education and outreach materials. Ecology would consider exclusion of certain products including petitions from PROs or producers, review and approve PRO submitted plans (due to Ecology by July 2026). In 2026, Ecology would conduct education and outreach to producers regarding the truth in labeling requirements for packaging recyclability.

Following PRO plan approval, program implementation oversight work would include ensuring producers and PROs are following program requirements. Ecology would also consider participating in a regional or multistate clearinghouse for packaging, including research and outreach to existing clearinghouse efforts in other states. Ecology would develop a combined list of laws and rules that apply to packaging and paper products, reach out to existing multistate clearinghouses to determine the best path forward for Washington State. Ecology would conduct this research and work with other state agencies to determine if a multistate clearinghouse for producer information would be beneficial to the program.

PRO annual reports would be due to Ecology starting in July 2028 for the prior calendar year, and annually thereafter. Ecology would review annual reports to ensure program implementation meets all required plan elements.

Ecology's ongoing compliance efforts would include, as needed, follow up with PROs and producers with technical assistance, and conducting enforcement for PROs or producers not meeting the program requirements. Enforcement would include warning letters to non-compliant producers or PROs, listing non-compliant producers on a website. Ecology would work with the producers and PROs to come into compliance.

Ecology estimates 0.75 full time equivalent (FTE) Environmental Planner 4 (EP-4) would be required in FY 2024, 1.0 FTE in FY 2025 and ongoing. Program duties include: provide technical assistance to producers and PROs regarding the

requirements of this bill, including notifying producers who have not registered with a PRO of their noncompliance status and conducting enforcement actions when necessary to ensure producer compliance; education and outreach to producers regarding the truth in labeling requirements; ensuring the PRO conducts their duties with sufficient efforts to consult and provide service to overburdened communities and vulnerable populations; research and outreach regarding a regional packaging clearinghouse; and working with local jurisdictions and other interested parties to resolve questions about the program. Ecology would review and approve the PRO proposed performance rate, which would be due for submittal by July 1, 2024.

Ecology estimates 0.10 FTE Budget Analyst 4 (BA-4) would be required in FY 2024 and 0.05 FTE in FY 2025 and ongoing to develop and update the annual workload model, prepare it for publication, and make necessary adjustments to the annual fee payment consistent with section 104(2)(b).

Ecology estimates 1.0 FTE Environmental Specialist 3 (ES-3) would be required each year in FY 2024 and FY 2025, and 0.75 FTE in FY 2026 and ongoing to: register PROs January 15, 2024 (and every January after); collect and manage submitted information; inform PROs of their fee payments by April 1, 2024 (and every April after); invoice PROs and collect PRO payments due June 30, 2024 (and every June after); consider requests from PROs or producers to hold data confidential; review of annual report data regarding recycling and reuse rates; provide enforcement support to the EP-4; and annually update information posted on the agency's website.

Ecology estimates 0.10 FTE Communications Consultant 3 (CC-3) would be required in FY 2024 to create a public website and 0.05 FTE in FY 2025 ongoing to update the website. The website would provide information about PROs, member producers, and covered products.

Ecology estimates 0.25 FTE Environmental Specialist 4 (ES-4) each year in FY 2025 through FY 2027, and 0.1 FTE ES-4 starting in FY 2028 and ongoing, would be required for regional staff work across the state to provide technical assistance to local jurisdictions regarding the PROs and impacts on local planning, support PROs conduct stakeholder consultations, and to answer questions from residents, businesses, and local agency staff and elected officials regarding the program. Ecology assumes the PROs would start working with local jurisdictions beginning in FY 2025 and Ecology would provide statewide technical support to cities, counties, and the local solid waste collection companies then.

#### Plan Review (Section 104)

Based on the BC program, Ecology assumes three PRO submitted plans would be received in July 2026 (FY 2027), (this assumes rule adoption by January 2026). Additional technical, policy, and communications expertise would be required to conduct reviews of PRO submitted plans. Based on Ecology experience, technical assistance would be provided to the PROs prior to plan submittal and for any needed plan amendments.

The bill would require Ecology to approve plans within 120 days. Based on EPR plan review experience, Ecology assumes one PRO plan amendment would be required for each PRO plan. Ecology assumes PRO plans would be approved by December 2026, and PROs would implement their plans by July 2027 (FY 2028). Plan review and approval work would occur again in FY 2030 for the first plan update due within three years and be repeated every five years thereafter.

Ecology estimates 0.5 FTE EP-4 would be required in FY 2027 to review plans submitted by three PROs, work with the advisory council, work with PROs on plan revisions, incorporate public comments, and approve plans.

Ecology estimates 0.5 FTE ES-4 would be required in FY 2027 to assist in plan review, work with topic and policy experts, work with the advisory council comments on the plan, and assist with the three PRO plan public comment periods.

Ecology estimates 0.10 FTE EP-5 topic and policy expert would be required in FY 2027 to review and approve submitted PRO plans, review of any advanced technology, responsible management practices, eco-modulation fees, collection service, and other technical issues.

Ecology estimates 0.15 FTE COEES-3 in FY 2027, supported by the ES-4, to manage the public comment review of the three submitted PRO plans, and work with the advisory council comments on the plan. They would manage the agency online comment platform, review comments, and provide a summary of council and public comments. They would also help draft the required responses to advisory council comments. Each plan would require a 30-day public comment period.

#### Performance Rate Study and Statewide Needs Assessment (Section 105)

The bill would require Ecology to contract for a performance rate study and statewide needs assessment. The performance rate study would be completed by April 2024. This study would recommend performance rate targets to be achieved by 2032, the ninth calendar year after bill passage. By July 1, 2024, PROs would submit proposed overall performance rate targets to Ecology for review, including 30-day public comment, and approval.

The bill would require the needs assessment to be completed by July 2025. Ecology assumes the consultant hired to do the performance study would also conduct the needs assessment. The Advisory Council, PRO, and UTC would provide input on the scope of the needs assessment as well as the draft report. The needs assessment would incorporate findings and recommendations from the performance rate study and the Ecology-approved PRO reuse and recycling target rates.

Ecology assumes a consultant would be hired by September 2023 (FY 2024) to conduct the performance rate study and needs assessment. The performance rate study would be completed by April 2024 (FY 2024) and the needs assessment would be completed by July of 2025 (FY 2026). Ecology would hire and oversee the consultant conducting the performance rate study and needs assessment, including consultation with the UTC, advisory council, and registered PROs on the draft performance rate study, scope of the needs assessment, and draft needs assessment as well as offering opportunities for public comment on both reports.

This work would require 0.5 FTE EP-4 each year in FY 2024 and FY 2025 to hire the consultant, manage the contract, and coordinate review and consultation with the advisory council, PRO, and UTC. The cost of the performance rate study and needs assessment would be comparative to the 2019 plastic study conducted for Chapter 70A.520 RCW due to the complexity and scope of the assessment.

Ecology estimates \$150,000 would be required for the performance rate study in FY 2024, and this estimate is shown in Object C. Section 304 (5) requires registered Distributor Responsibility Organizations (DROs) to fund half of the cost of the performance rate study. However, the study would be completed before DRO fees are assumed to take effect. For this reason, the workload and costs for the study are estimated in Model Toxics Control Account-Operating (MTCA-Op), which is assumed to support all costs that are incurred before PRO and DRO fees become effective.

Ecology estimates \$300,000 for the needs assessment in FY 2025, shown in Object C. Ecology assumes the needs assessment would be updated within five years, with a more focused scope. Ecology estimates \$100,000 for a consultant contract and 0.25 FTE EP-4 would be needed in FY 2029 to conduct a needs assessment update.

#### Advisory Council (Section 121)

Ecology assumes a 23-member advisory council would be established in FY 2024 (January 2024), and Ecology would consult with this advisory council during program startup efforts. The work to establish the council would be conducted by Ecology. Facilitation of the council would be conducted by a third-party facilitator hired by Ecology. Members of the council or their designee who represent tribes or tribal and indigenous services and community-based and environmental nonprofit organizations would be reimbursed for travel expenses to the extent allowed per RCW 43.03.050 and 060 or RCW 70A.02.050. The advisory council would be providing review and input on the deposit return system created in Sections 301 to 319. Section 304(5) of this bill requires the DRO to fund one-half of the cost of the support and facilitation of the advisory council.

Beginning in FY 2024, Ecology would attend council meetings, oversee the third-party facilitator, manage the contract,

provide reimbursements to council members as requested, and provide other staff support to the council. This work would be higher for the for the first three years (FY 2024 to FY 2027) of quarterly council meetings and less in the second half of FY 2027 and ongoing for semiannual meetings. Ecology estimates 0.30 FTE EP-4 in FY 2024 and 0.20 FTE EP-4 in FY 2025 and FY 2026, and 0.10 in FY 2027 and ongoing.

Ecology assumes a contract with a professional facilitator would be required for the advisory council meetings to ensure all council members have a voice in the PRO and Ecology efforts detailed in the bill. Ecology further assumes that the third-party facilitator would coordinate council meetings, set agendas, schedule meeting, prepare materials, take notes, prepare council comments on Ecology and PRO activities, and assist the council in development of bylaws and charter. The facilitator would work with the council's diverse membership to provide comments and recommendations to Ecology and the PROs on the implementation of the EPR program, the reuse and recycling target rate study, and the needs assessment. Based on Ecology's experience with a third-party facilitator hired for the plastic stakeholder advisory committee required in Engrossed Second Substitute Senate Bill 5022 (2019 legislative session), Ecology estimates the cost of this professional services contract would be \$15,000 per advisory council meeting. Section 121 (6) would require the council to meet a minimum of every three months for the first three years. The advisory council would begin meetings in January 2024, meet quarterly for at least three years from January 2024 to December 2026, and continue semiannual meetings ongoing after January 2027. Costs are estimated at \$30,000 in FY 2024 for two meetings, \$60,000 each year in FY 2025 and FY 2026 for four meetings, \$45,000 for three meetings in FY 2027, and \$30,000 for two meetings in FY2028 and ongoing.

Ecology assumes that there would be five members of the board who would receive reimbursement for travel. Ecology estimates that private vehicle mileage plus per diem would be \$350 per person per meeting, for a total estimate of \$1,175 per meeting. Reimbursements would be based on documents submitted per the RCWs, in a form prescribed by Ecology. Costs are estimated to be \$3,500 for two meetings in FY 2024, \$7,000 for four meetings each year in FY 2025 and FY 2026, \$5,250 for three meetings in FY 2027, and \$3,500 for two meetings in FY 2028 and ongoing each year thereafter, in Object G.

In FY 2024, all costs for this section would be funded in MTCA-Op before PRO fees take effect. Section 304 (5) would require registered Distributor Responsibility Organizations (DROs) to fund half of the costs for the Advisory Council. Because the Advisory Council falls within the requirements to implement this chapter and are thus eligible to be fully funded by PRO fees, FY 2025 costs are assumed to be in the Responsible Product Management Account (RPMA). Beginning in FY 2026, half of the annual costs for Section 121 would be charged to the RPMA, and half would be charged to the Deposit Return Organization Program Account (DROPA) to align with fee revenue funding.

#### AAG Support – EPR Program and PCRC requirements

Our Assistant Attorney General (AAG) has estimated that the following staff time in the Office of the Attorney General (ATG) would be needed to provide legal support for rulemaking, and advice and representation in support of Ecology's enforcement to ensure producer participation (i.e., registration and annual fee payments starting June 2024, determining responsible parties starting January 2023, enforcement letters, penalties) in FY 2024 through FY 2027. In addition, ATG advice and representation would be needed in support of Ecology's enforcement of program implementation 0.17 FTE AAG and 0.08 Legal Assistant (LA) for a total of \$44,400 each year in FY 2024 and FY 2025, and 0.15 FTE AAG and 0.08 FTE LA for a total of \$38,100 each year beginning in FY 2026 and ongoing. Costs are included in Object E.

#### PCRC requirements for PRO (Sections 201, 202, 203, 210, 211, 212, 214)

Beginning January 31, 2024, and annually thereafter, the PRO established in Part I of this bill would be required to register with Ecology on behalf of all member producers of PCRC products. The PRO would be responsible for identifying member producers required to meet PCRC requirements, annually collect producer fee payments and data required to be reported to Ecology. The PRO would submit an annual report to Ecology beginning April 1, 2025, and annually thereafter.

PCRC products include plastic beverage containers, plastic household cleaning product containers, plastic personal care

product containers, plastic tubs, thermoform plastic containers, single-use plastic cups, and cannabis products packaged in plastic containers or packaging.

Beginning July 2023, Ecology would provide technical assistance regarding PCRC requirements to producers of PCRC products. This technical assistance would be ongoing, as the PCRC rates apply to different products at different dates and at different levels. As Ecology is currently in the middle of rulemaking for Chapter 70A.245 RCW, confusion and clarification would be expected for the regulated community to explain the changes if this bill passes. This would require updating Ecology's website and providing clear communication materials.

After January 2024, Ecology would provide ongoing technical assistance for PCRC compliance, including ensuring regulated producers join the EPR PRO and come into compliance with the requirements. Ecology assumes evaluations to adjust the PCRC requirements would occur annually and start a year before the minimum recycled content requirements begins. PRO petitions would be expected the year before PCRC rates apply and be ongoing, beginning in FY 2024, as producers would likely petition for reduced requirements to avoid being out of compliance. Ecology's evaluations would be based on research on market conditions, recycling rates, availability of recycled plastic, infrastructure capacity, and covered product producers' progress to achieving the goals, and determine if the minimum standards for the product packaging should be adjusted. Ecology would evaluate producer submitted data in the process of determining recycled content adjustments. Ecology assumes data about the availability of multiple types of recycled content plastics resins would be purchased from an independent third-party organization a year prior to when the rates would apply beginning in FY 2026, at an estimated cost of \$30,000 per year starting FY 2025 annually thereafter.

Based on recent presentations by industry trade groups about the lack of widely available polypropylene (PP) and polyethylene terephthalate (PET) thermoform resin approved for food contact by the U.S. Food and Drug Administration, Ecology assumes annual review of these elements would be warranted. Ecology assumes annual PRO petitions for each of the PCRC covered products. Ecology would conduct research on market conditions, recycling rates, availability of recycled plastic, infrastructure capacity, and PCRC product producers' progress to achieving the goals and determine if the minimum standards for the PCRC product container categories or types should be adjusted. Ecology assumes temporary exclusion requests would apply to each category of PCRC products. These requests would be expected every year starting with the PRO PCRC annual report submitted in April 2024. Ecology would evaluate producer submitted data in the process of determining recycled content adjustments or temporary exclusions from PCRC requirements.

Ecology would review PRO PCRC annual reports, determine producers not in compliance with the minimum PCRC requirements, notify the PRO of the PCRC product producers out of compliance, calculate the penalty, and consider PCRC rate adjustments by PCRC product category or type, penalty reductions, or corrective action plans in lieu of penalty. Penalty assessments, adjustments, reductions, and determinations would begin in June 2024 and be ongoing every June thereafter.

Ecology assumes rulemaking would be required to implement the PCRC requirements. This rulemaking would be included in the rule completed for Part I of this bill.

Ecology estimates 0.50 FTE EP-4 each year in FY 2024 and ongoing to provide technical assistance, ensure producer compliance, review annually reported PCRC data from the EPR PRO, manage requests for confidential information request, review requests for adjustments or exclusions, and determine penalty assessments or reductions.

#### Cannabis packaging PCRC (Section 209)

Producers of cannabis products and processors of cannabis products would be required to meet the PCRC minimums set in this section of the bill for plastic packaging used for cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products produced, processed, or sold in Washington. PCRC dates for cannabis plastic packaging would be effective starting January 2025.

Cannabis producers required to comply with the PCRC requirements would register with the PRO established in Part I for the purpose of compliance with all PCRC requirements (per Section 203).



Beginning July 2023, Ecology would consult with the Washington Liquor and Cannabis Board (WLCB) on the implementation of this bill on the producers of cannabis products. Ecology would provide technical assistance regarding PCRC requirements to producers of cannabis products packaged in plastic containers. There are over 2,000 companies with cannabis licenses in Washington state. This technical assistance would be ongoing, as the PCRC rates apply to all producers and processors of cannabis products using plastic packaging.

Ecology assumes rulemaking would be required to implement the PCRC requirements for cannabis producers and processors. This rulemaking would be included in the rule completed for Part I of this bill.

Ecology estimates 0.25 FTE EP-4 each year in FY 2024, FY 2025, and FY 2026 and 0.15 FTE in FY 2027 and ongoing to consult with the WLCB, provide technical assistance, ensure cannabis producer compliance, review requests for adjustments or exclusions, and determine penalty assessments or reductions for the products required to meet the PCRC rates for cannabis products in plastic packaging.

Elimination of Ecology oversight of PCRC for plastic beverage containers, household cleaning products and personal care product containers (Sections 215-219)

Sections 215 through 219 would repeal significant portions of the current post-consumer recycled content requirements in Chapter 70A.245 RCW and invalidate the provisions Chapter 173-925 Washington Administrative Code (WAC). For the purposes of this fiscal note, Ecology assumes this change would become effective on July 1, 2023, and would eliminate funding authority for the program beginning that first day of FY 2024.

Rulemaking is currently in progress, and rule adoption for Chapter 173-925 WAC is planned for late calendar year 2023. Ecology would suspend rulemaking for Sections 215 through 219, and the rule would not be adopted.

Based on the 2023-25 Carryforward Level Operating Budget, Ecology's budget would be reduced by 4.4 FTE and \$964,000 in the Recycled Content Account in the 2023-25 biennium and ongoing.

For this fiscal note, direct FTE reductions are shown at an average Environmental Specialist 3 level, with FTEs reduced by 3.82 direct FTEs and 0.58 FTEs for agency indirect support. In addition to the staff cost reduction, an additional reduction of \$29,295 in Object E in each fiscal year represents other non-staff-related costs for the PCRC law implementation that would need to be reversed. Spending authority in the Recycled Content Account would be reduced as follows: -\$482,000 in FY 2024 and ongoing each fiscal year thereafter.

Ecology's oversight of certificated PCRC products (Sections 215-223)

Producers of certificated postconsumer recycled content products would be required to meet PCRC minimums by specific dates. Certificated postconsumer recycled content products would include plastic trash bags, plant pots and trays, pesticide plastic product containers, and plastic collection bins used to collect recyclables, compostable, or garbage. The producers of those products would be required to meet PCRC rates and, upon request, provide certificates of compliance.

Beginning July 2023, Ecology would provide outreach and technical assistance regarding recycled content requirements to producers of plastic trash bags, pesticide product containers, plant pots, plant trays, and collection bins. Ecology would assist producers with the certificate of compliance requirements. Ecology would provide information on its website regarding the recycled content requirements. Ecology would provide ongoing technical assistance for recycled content compliance for plastic trash bags, pesticide product containers, plant pots/trays, and collection bins. Ecology would review requests for adjustments or exclusions for certified postconsumer recycled content products. Ecology assumes these requests would be received annually for all product categories.

Ecology assumes rulemaking would not be required to implement the requirements on producers of certificated

postconsumer recycled content products.

Ecology estimates 0.25 FTE EP-4 each year in FY 2024, FY2025, and FY2026, and 0.15 FTE EP-4 in FY 2027 and ongoing to provide technical assistance, ensure producer compliance, review requests for adjustments or exclusions, request certificates of compliance, and determine penalty assessments or reductions for the products required to meet the PCRC rates.

#### Market Study (Section 221)

If funding is appropriated prior to January 1, 2028, Ecology would be required to contract with a research university or an independent consultant to study plastic resin markets for analyzing market conditions and opportunities in the state's recycling industry for meeting minimum PCR content requirements and/or certification requirements specified in this act. The study would also determine the data needs and tracking opportunities to increase the transparency and support of a more effective, fact-based public understanding of the recycling industry. The study must be completed by May 1, 2029. Ecology assumes funding would be appropriated in the 2027-29 carryforward budget. Ecology assumes a comprehensive analysis of plastic resin markets to assess the ability to support the ongoing PCR content requirements. The analysis would need to be robust and based on available peer-reviewed data.

Based on a recent experience with a comprehensive study on plastic packaging for the state of Washington (Chapter 70A.520 RCW, E2SSB 5397 Laws of 2020), Ecology estimates 0.20 FTE EP-4 in FY 2028 to develop a contract proposal, review applications, manage the contract, review the contract's findings, and provide recommendation on the state's recycling industry and ability to meet the minimum PCR content requirements and/or certification requirements specified in this act. Ecology estimates this contract would cost \$250,000 in FY 2028.

#### Rulemaking – Parts 1 and 2 (Sections 102, 104, 107, 110, 120, 121, 203, 209, 210, 211, 212, and 214)

Rulemaking would be required for the EPR program in this bill. Ecology assumes rulemaking would be highly technical with high public interest and require extensive public engagement. Ecology would establish a rule advisory committee to assist with rule development and consult with the advisory committee throughout the rulemaking process. Based on the Chapter 70A.245 RCW rule, we assume 4-6 meetings with the rule advisory committee. Ecology assumes three public meetings when developing draft rule language and three public hearings for the proposed rule language. Ecology would conduct targeted outreach and consult with overburdened communities and vulnerable populations across the state throughout the rulemaking process. Based on the requirements in this bill and prior experience with extended producer responsibility programs and rulemaking, Ecology assumes this initial rulemaking would take 2.25 years to complete, beginning October 2023 (FY 2024) and completed by January 2026 (FY 2026). The information provided in the performance rate study and needs assessment (required in Section 105) would be incorporated into the rulemaking effort in FY 2026.

Initial rule development for this program would include: clarifying definitions; establishing an equitable formula for determining each PRO's share of the annual payment to cover Ecology's costs; establishing plan content requirements necessary to fulfill the intent of the bill; establishing elements to be included as annual reporting requirements necessary to determine the program's compliance; establishing third-party audit and verification requirements; establishing processes for plan approvals; and any other requirements.

This rulemaking would also include PCRC covered products overseen by the PRO (Part II of the bill, including work related to cannabis products (section 209)) in the rule scope. PCRC rulemaking would be required to provide clarification regarding requirements for third party certification of PCRC; process for reducing PCRC requirements; PCRC reporting requirements; and enforcement process. This rulemaking would include the PCRC requirements on cannabis products in plastic packaging, in consultation with the WLCB (Section 209).

The following would be required:

A rule coordinator to oversee the rulemaking process to comply with the Administrative Procedures Act; oversee the rule development and communication plan; review and file the CR-101; coordinate and conduct public meetings; file the CR-102 and hold public hearings with webinar access; work with an economist on economic impact analysis; work with technical staff to finalize rule language; and file the CR-103 for adoption. This would require 0.11 FTE Regulatory Analyst 3 (RA-3) in FY 2024, 0.16 FTE RA-3 FY 2025, and 0.11 FTE RA-3 in FY 2026 to complete a 2.25-year complex rule.

A rulemaking lead would oversee rule timeline management, lead rule development, manage stakeholder engagement, consult with the advisory council, incorporate results from the needs assessment, and conduct other tasks as necessary. This would require as follows: 1.0 FTE EP-4 in FY 2024; 1.5 FTE EP-4 FY 2025; and 1.0 FTE EP-4 in FY 2026.

Subject matter experts would advise on criteria for: establishing plan content requirements, annual reporting requirements and processes for plan approvals; establishing protocols for PCRC rate adjustments, exclusions, or reductions; developing protocols for third party verification; and providing expert advice on extended producer responsibility programs in Washington State, the US, and internationally. This would require 0.75 FTE EP-5 in FY 2024, 1.0 FTE EP-5 FY 2025, and 0.75 FTE EP-5 in FY 2026.

Technical support staff would collect data, support analysis of potential policy outcomes, provide support to the EP-4 rulemaking lead and EP-5, and subject matter experts, coordinate with communications staff to provide technical support for public outreach. This includes any needs for regional support. This would require a 0.5 FTE ES-4 in FY 2024, 1 FTE ES-4 in FY 2025, and 0.5 FTE ES-4 in FY 2026

Based on previous rulemaking experience and the magnitude of interested parties and affected stakeholders, the requirement to consult with the advisory council, communications and outreach support is included to ensure robust public engagement in the rulemaking process. The following positions would support public engagement:

A communications lead would coordinate an outreach strategy and media engagement. This would require a Communications Consultant 5 (CC-5) 0.1 FTE in FY 2024, 0.15 FTE in FY 2025, and 0.1 FTE in FY 2026.

Due to the impact of the EPR program to all state residents, Ecology would conduct targeted outreach and consult with overburdened communities and vulnerable populations across the state throughout the rulemaking process. This would require an Environmental Planner 3 (EP-3) 0.2 FTE in FY 2024, 0.25 FTE in FY 2025, and 0.2 FTE in FY 2026.

An outreach coordinator would organize rule advisory committee meetings, public meetings, prepare informational materials, and respond to stakeholder questions throughout the rulemaking process. This would require a Community Outreach & Environmental Education Specialist 3 (COEES-3) 0.4 FTE in FY 2024, 0.5 FTE in FY 2025, and 0.4 FTE in FY 2026.

The following positions would complete an economic and regulatory analysis of the rule and subsequent updates as required by law: Economic Analyst 3 (EA-3) 0.25 FTE in FY 2026; and Regulatory Analyst 2 (RA-2) 0.1 FTE in FY 2026.

Three public meetings would be held in FY 2025 and three public hearings would be held in FY 2026. Cost estimates include facility rental costs, estimated at \$1,000 per meeting for a total of \$3,000 each year in FY 2025 and FY 2026 in Object E. Based on the complexity of the rule and prior experience with other complex rulemakings, Ecology assumes a contract with a professional facilitator would be required for these public meetings to ensure that all stakeholders have an equal voice. Ecology estimates the facilitator cost would be \$2,100 per meeting or hearing. Cost estimates include professional services contract costs for facilitation, estimated at \$6,300 in FY 2025 and \$6,300 in FY 2026 in Object C.

In addition to the initial rule for the program, section 104(8) would authorize Ecology to initiate a second rulemaking beginning on January 1, 2029 (FY 2029), and no more frequently than every five years. This second rulemaking would specify requirements for producers to collect and manage covered products from additional locations or entities determined to be significant sources of covered product waste and, if necessary, update the rule language adopted in FY 2026.

Ecology assumes this rulemaking would be very complex with high public interest (level 2 rule) and require 27 months to complete. Ecology assumes we would submit a budget request for this future rulemaking, which is not estimated as it is beyond the 6-year cost estimate of this fiscal note.

### PART THREE – DEPOSIT RETURN SYSTEM

#### Administration/Oversight (Section 307)

Based on the beverage container deposit return system (DRS) operating in Oregon, Ecology assumes 500 beverage distributors would be required to join the distributor responsibility organization (DRO). For purposes of this fiscal note, Ecology assumes 20 percent of these distributors would require technical assistance to ensure compliance. Technical assistance would include providing regulatory interpretations for distributors, beverage producers, and the DRO regarding the requirements of this bill, notifying distributors who have not registered with the DRO of their noncompliance status, and conducting enforcement actions when necessary to ensure distributor and DRO compliance. Ecology assumes technical assistance would be ongoing, heavier in first three years and would reduce in the following years.

Ecology assumes one DRO would be established and register with Ecology by January 2024 based on the registration requirement for the PRO in Part 1 of this bill.

#### DRS Department Duties (Section 307)

Ecology would be required to implement, administer, and enforce this chapter. Since some key dates are not provided in this section of the bill, Ecology assumes the following based on experience and the timeline for rulemaking.

The DRO would notify Ecology of its intent to operate a DRS program and register by January 2024. In May 2024, distributors would be required to join the DRO to sell or distribute qualified beverage containers in the state. The DRO would be required to identify and provide information on their member distributors to Ecology.

Beginning July 2023, Ecology would provide outreach and technical assistance to the EPR PRO established in Part 1 of this bill, distributors, solid waste service providers, processors, and local governments regarding the requirements of this bill.

Ecology would be authorized to adopt rules to implement, administer, and enforce this chapter (section 307(1)). Ecology assumes rulemaking would require 18 months, starting in October 2023, and complete in April of 2025.

Ecology would prepare a workload analysis to determine the annual fee payment for the next fiscal year by September 1, 2024, and annually thereafter. In December 2024, the DRO would be required to pay Ecology's annual costs to implement and administer the chapter, including half of the cost of the advisory council (section 121) and half of the cost of the performance rate study (section 105).

Ecology assumes the DRO would submit the DRS plan to Ecology by April 2026, six months after rule adoption, and establish the collection infrastructure and implement the plan by April 2027. The first annual report would be due to Ecology by July 2028.

Section 307 (8) would require Ecology to create and administer a curbside revenue augmentation fund, for the first five years of program implementation (FY 2028 to FY 2032). Under current law, an account would be required to be created in the state treasury, agencies do not have the authority. The bill does not indicate an account for the curbside revenue augmentation fund. Also, there is insufficient information to estimate the use of this fund or how Ecology would administer it. The expenditures and timing are indeterminate.

Ecology estimates 1.0 FTE EP-4 would be required in FY 2024 and 1.5 FTE in FY 2025 and ongoing. Program duties

include providing technical assistance to distributors and DROs regarding the requirements of this bill, including notifying distributors not registered with a DRO of their noncompliance status and conducting enforcement actions when necessary to ensure distributor compliance; coordinating with the advisory council (Section 121) and the performance rate study (Section 105), and providing technical assistance to local jurisdictions regarding the DROs and impacts on local planning and recycling services, and answering questions from residents, businesses, and local agency staff and elected officials regarding the program; ensuring the DRO conducts their duties with sufficient efforts to consult and provide service to overburdened communities and vulnerable populations; reviewing and approving DRO plans and annual reports; reviewing alternative recycling process third-party assessments.

Ecology estimates 1.0 FTE Environmental Specialist 3 (ES-3) would be required each year in FY 2024 and FY 2025, and 0.5 FTE FY 2026 and ongoing to: register DROs; collect and manage submitted information; inform DROs of their fee payments by September 1, 2024, and annually thereafter; invoice DRO and collect DRO payments due December 2024, and annually thereafter; consider requests from DROs or distributors to hold data confidential; review of annual reports in, review data to ensure the program meets the recycling and reuse rates; provide enforcement support to the EP-4; and annually update information posted on the agency's website.

Ecology estimates 0.10 FTE Budget Analyst 4 (BA-4) would be required in FY 2024 and 0.05 FTE in FY 2025 and ongoing to develop and update the annual workload model, prepare it for publication, and make necessary adjustments to the annual fee payment consistent with section 307(2)(b).

Ecology estimates 0.10 FTE Communications Consultant 3 (CC-3) would be required in FY 2024 to create a public website and 0.05 FTE in FY 2025 ongoing to update the website. The website would provide information about DROs, member distributors, and qualified beverage containers.

#### AAG Support – DRS Program

Our Assistant Attorney General (AAG) has estimated that the following staff time in the Office of the Attorney General (ATG) would be needed to provide legal support for rulemaking, and advice and representation in support of Ecology's enforcement to ensure distributor participation (i.e., registration and annual fee payments starting June 2024, determining responsible parties starting January 2023, enforcement letters, penalties) in FY 2024 through FY 2027. In addition, ATG advice and representation would be needed in support of Ecology's enforcement of program implementation 0.11 FTE AAG and 0.06 Legal Assistant (LA) for a total of \$26,600 each year in FY 2024 and FY 2025, and 0.09 FTE AAG and 0.04 FTE LA for a total of \$22,900 each year beginning in FY 2026 and ongoing. Costs are included in Object E.

#### Feasibility Study (Section 320)

The bill would require Ecology to contract for a feasibility study to identify options to improve the convenience experienced by consumers with unwanted products or packaging covered by state product stewardship, extended producer responsibility, and similar takeback programs, by harmonizing or establishing a system of common or centralized takeback centers or depots for consumers. This study would be required to consult with consumers delivering takeback products, producer funded program operators, other interested parties (like local governments, collection site operators), and analyze more convenient standards and provide recommendations. The study would be completed by December 1, 2025 and deliver policy recommendations to the legislature.

Ecology assumes a consultant would be hired by July 2024 (FY 2025) to conduct the feasibility study. The feasibility study would be completed by August 2025 and delivered to the legislature by December 2025.

This work would require 0.5 FTE EP-4 each year in FY 2025 and FY 2026. Ecology would hire and oversee the consultant conducting the feasibility study, consult with the Department of Health concerning the collection infrastructure of the medicine return program under Chapter 69.48 RCW, offer opportunities for public comment on the study. Ecology assumes position would serve as the agency coordinator on the recommendations report to the legislature.

In addition to the lead coordinator, preparation of the report for submittal to the legislature would require the following:

An EP-5 would provide policy review of the feasibility study report, advise the project lead, and coordinate with Ecology's government relations on the recommendations. The estimated workload is 0.10 FTE in FY 2026.

A CC-5 would provide communications review for content clarity and key messages. The estimated workload is 0.05 FTE in FY 2026.

A CC-2 would provide accessibility and plain talk review of the consultant's study report as well as the recommendations to the legislature. The estimated workload is 0.05 FTE in FY 2026.

The scope of the feasibility study would be more complicated than the 2022 consumer packaging study conducted under Senate Bill 5693 Section 58 due to the complexity of Washington's multiple product takeback programs and laws. Ecology estimates \$200,000 would be required for the feasibility study in FY 2025 and \$125,000 in FY 2026, shown in Object C.

#### Litter Tax Study (Section 321)

The bill would require Ecology to contract for a study of the impacts of the EPR and DRS program on litter rates in the state. The study would identify improvements to the structure of the litter tax (under chapter 82.19 RCW) including administration, compliance, and distribution of the tax and application of the tax to certain products.

Ecology, in consultation with the Department of Revenue, would provide recommendations on the applicability of the litter tax on EPR covered products and DRS qualifying beverage containers and improvements to the structure of the litter tax. The recommendations would be delivered to the appropriate committees of the legislature by January 2029.

Ecology assumes a consultant would be hired by July 2027 (FY 2028) to conduct the study. The study would be completed by August 2028 (FY 2029). Ecology and Revenue would provide recommendations to the legislature by January 2029.

This work would require 0.5 FTE EP-4 in FY 2028 and FY 2029. Ecology would hire and oversee the consultant conducting the litter tax study and work with the DRO, PRO, and advisory council on the draft study review and comment. This position would consult with the Department of Revenue regarding the litter tax recommendations to be submitted to the legislature. Ecology assumes position would serve as the agency coordinator on the recommendations report to the legislature.

This work would require 0.25 FTE EP-5 in FY 2029 to provide policy review of the consultant's study report, advise the project lead, and coordinate with Ecology's government relations on the recommendations. This position would provide policy review of the contracted study and provide assistance in consultation with the Department of Revenue. Ecology assumes this position would advise the lead coordinator on legislative report requirements.

In addition to the efforts identified above, preparation of the report for submittal to the legislature would require the following:

A CC-5 would provide communications review for content clarity and key messages. The estimated workload is 0.05 FTE in FY 2029.

A CC-2 would provide accessibility and plain talk review of the consultant's study report as well as the recommendations to the legislature. The estimated workload is 0.05 FTE in FY 2029.

The cost of the study would be more complicated than the 2022 consumer packaging study conducted under Senate Bill 5693 Section 58 due to the complexity and scope of the study. Ecology estimates \$200,000 would be required for the litter

tax study in FY 2028 and \$100,000 in FY 2029, shown in Object C.

### Rulemaking – Part 3 (Section 307)

Ecology assumes rulemaking would be required for the DRS program. It would be technical with high public interest and require extensive public engagement. Ecology assumes we would create a rule advisory committee to develop draft language and consult with the advisory council (created in Section 121) throughout the rulemaking process. Based on the Chapter 70A.245 RCW rule, we assume 4-6 meetings with the rule advisory committee in addition to advisory council meetings. Ecology would conduct targeted outreach and consult with overburdened communities and vulnerable populations across the state throughout the rulemaking process. Ecology assumes two public meetings when developing draft rule language, and two public hearings for the proposed rule language. Based on the requirements in this bill and experience with extended producer responsibility programs and other related rulemakings, Ecology assumes this initial rulemaking would take 18 months to complete, beginning October 2023 (FY 2024) and completed by April 2025 (FY 2025). Rule development for this program would include: clarifying definitions; identifying beverage containers exempted from the DRS, establishing an equitable formula for determining each DRO's share of the annual payment to cover Ecology's costs; determining the premium refund value; determining the indication of the refund value on the beverage container; establishing plan content requirements necessary to fulfill the intent of the bill; establishing elements to be included as annual reporting requirements necessary to determine the program's compliance; establishing third-party audit and verification requirements; establishing processes for plan approvals; and any other requirements.

The following would be required:

A rule coordinator to oversee the rulemaking process to comply with the Administrative Procedures Act; oversee the rule development and communication plan; review and file the CR-101; coordinate and conduct public meetings; file the CR-102 and hold public hearings with webinar access; work with an economist on economic impact analysis; work with technical staff to finalize rule language; and file the CR-103 for adoption. This would require 0.09 FTE RA-3 in FY 2024 and 0.11 FTE RA-3 in FY 2025 to complete a 1.75-year moderately complex rule.

A rulemaking lead would oversee rule timeline management, lead rule development, manage stakeholder engagement, and conduct other tasks as necessary. This would require 0.25 FTE EP-4 in FY 2024 and 0.5 FTE EP-4 FY 2025.

Subject matter experts would advise on criteria for: establishing qualifying and exempt beverage containers, annual reporting requirements and processes for plan approvals; developing protocols for third party verification; and providing expert advice on deposit return programs in the US and internationally. This would require 0.25 FTE EP-5 in FY 2024 and 0.5 FTE EP-5 FY 2025.

Technical support staff would collect data, support analysis of potential policy outcomes, provide support to the EP-4 rulemaking lead and EP-5, and subject matter experts, and coordinate with communications staff to provide technical support for public outreach. This includes any needs for regional support. This would require a 0.25 FTE ES-4 in FY 2024 and 0.5 FTE ES-4 in FY 2025.

Based on previous rulemaking experience and the magnitude of interested parties and affected stakeholders, communications and outreach support is included to ensure robust public engagement in the rulemaking process. The following positions would support public engagement:

A communications lead would coordinate an outreach strategy and media engagement. This would require a CC-5 0.08 FTE in FY 2024 and 0.1 FTE in FY 2025.

Due to the impact of the DRO program to all state residents, Ecology would conduct targeted outreach and consult with overburdened communities and vulnerable populations across the state throughout the rulemaking process. This would require an EP-3 0.2 FTE in FY 2024 and FY 2025.

An outreach coordinator would organize rule advisory committee meetings and public meetings, prepare informational materials, assist with rule discussion at advisory council meetings, and respond to stakeholder questions throughout the rulemaking process. This would require a COEES-3 0.38 FTE in FY 2024 and 0.5 FTE in FY 2025.

The following positions would complete an economic and regulatory analysis of the rule and subsequent updates as required by law: EA-3 0.25 FTE in FY 2025; and RA-2 0.1 FTE in FY 2025.

Two public meetings would be held in FY 2024 and two public hearings would be held in FY 2025. Cost estimates include facility rental costs, estimated at \$1,000 per meeting for a total of \$2,000 each year in FY 2024 and FY 2025 in Object E. Based on the complexity of the rule and prior experience with other complex rulemakings, Ecology assumes a contract with a professional facilitator would be required for these public meetings to ensure that all stakeholders have an equal voice. Ecology estimates the facilitator cost would be \$2,100 per meeting or hearing. Cost estimates include professional services contract costs for facilitation, estimated at \$4,200 in FY 2024 and \$4,200 in FY 2025 in Object C.

Ecology assumes this rulemaking would be moderately complex with some public interest (level 2 rule) and require 18 months to complete.

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

Parts 1 and 2 of the bill are estimated to require:

FY 2024: \$1,272,964 and 7.8 FTEs

FY 2025: \$1,771,579 and 9.9 FTEs

FY 2026: \$1,160,409 and 7.6 FTEs

FY 2027: \$753,169 and 4.9 FTEs

FY 2028: \$812,885 and 3.5 FTEs

FY 2029: \$671,093 and 3.6 FTEs

Repeal of current PCRC requirements (Sections 215-219)

FY 2024 and ongoing: Reduction of \$482,000 and 4.4 FTE (Recycled Content Account)

Part 3 of the bill is estimated to require:

FY 2024: \$567,008 and 4.3 FTEs

FY 2025: \$1,112,660 and 6.7 FTEs

FY 2026: \$581,255 and 3.2 FTEs

FY 2027: \$342,448 and 2.4 FTEs

FY 2028: \$624,533 and 3.0 FTEs

FY 2029: \$583,324 and 3.4 FTEs

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

FY 2024: \$1,357,972 and 7.7 FTEs

FY 2025: \$2,402,239 and 12.3 FTEs

FY 2026: \$1,259,664 and 6.4 FTEs

FY 2027: \$613,617 and 2.9 FTEs

FY 2028: \$955,418 and 2.1 FTEs

FY 2029: \$772,417 and 2.6 FTEs

Notes on costs by object:

Salary estimates are current biennium actual rates at Step L.



Benefits are the agency average of 36% of salaries.

Professional Services includes costs for contracts to support studies and assessments in sections 105, 221, 320 and 321, estimated to be \$150,000 in FY 2024, 500,000 in FY 2025, \$125,000 in FY 2026, \$450,000 in FY 2028, and \$200,000 in FY 2029; Object C also includes cost estimates for facilitation for rulemaking and the Advisory Council, estimated to be \$34,200 in FY 2024, \$70,500 in FY 2025, \$66,300 in FY 2026, \$45,000 in FY 2027, and \$15,000 in FY 2028 and ongoing thereafter. Goods and Services are the agency average of \$5,224 per direct program FTE and includes estimated AGO costs of \$71,000 each year in FY 2024 and 2025, and \$61,000 in FY 2026 and ongoing each fiscal year thereafter. Object E also includes rulemaking facilities costs of \$2,000 in FY 2024, \$5,000 in FY 2025, and \$3,000 in FY 2026; also included is \$30,000 in FY 2025 and ongoing each subsequent year for market data, and a reduction of \$29,295 for non-staff related costs for the repeal of PCRC requirements under current law.

Travel is the agency average of \$1,563 per direct program FTE and includes travel reimbursement estimates for Advisory Council members, estimated to be \$3,500 in FY 2024, \$7,000 each year in FY 2025 and 2026, \$5,250 in FY 2027, and \$3,500 in FY 2028 and ongoing each year thereafter.

Equipment is the agency average of \$1,031 per direct program FTE.

Agency Administrative Overhead is calculated at the federally approved agency indirect rate of 28.75% of direct program salaries and benefits, and is shown as object 9. Agency Administrative Overhead FTEs are included at 0.15 FTE per direct program FTE, and are identified as Fiscal Analyst 2 and IT App Development - Journey.

### Part III: Expenditure Detail

#### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
23P-1	Model Toxics Control Operating Account	State	1,839,972	1,153,702	2,993,674	304,475	855,046
25R-6	Recycled Content Account	Non-Appropriated	(482,000)	(482,000)	(964,000)	(964,000)	(964,000)
NEW-6	Deposit Return Organization Program Account	Non-Appropriated	0	0	0	768,145	734,814
NEW-6	Responsible Packaging Management Account	Non-Appropriated	0	1,730,537	1,730,537	1,764,661	1,101,975
<b>Total \$</b>			1,357,972	2,402,239	3,760,211	1,873,281	1,727,835

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	7.7	12.3	10.0	4.7	2.3
A-Salaries and Wages	613,516	950,751	1,564,267	819,442	488,682
B-Employee Benefits	220,865	342,271	563,136	294,998	175,926
C-Professional Service Contracts	184,200	570,500	754,700	236,300	710,000
E-Goods and Other Services	78,652	132,340	210,992	168,826	144,616
G-Travel	13,957	23,648	37,605	24,939	13,345
J-Capital Outlays	6,897	10,985	17,882	8,378	4,195
9-Agency Administrative Overhead	239,885	371,744	611,629	320,398	191,071
<b>Total \$</b>	1,357,972	2,402,239	3,760,211	1,873,281	1,727,835

**III. C - Operating FTE Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
BUDGET ANALYST 4	85,020	0.2	0.1	0.2	0.1	0.1
COM OUTREACH & ENV ED SP 3	63,216	0.8	1.0	0.9	0.3	
COMM CONSULTANT 2	60,156				0.0	0.0
COMM CONSULTANT 3	66,420	0.2	0.1	0.2	0.1	0.1
COMM CONSULTANT 5	87,144	0.2	0.3	0.2	0.1	0.0
ECONOMIC ANALYST 3	85,020		0.3	0.1	0.1	
ENVIRONMENTAL PLANNER 3	80,952	0.4	0.5	0.4	0.1	
ENVIRONMENTAL PLANNER 4	89,292	4.8	6.7	5.8	4.5	4.1
ENVIRONMENTAL PLANNER 5	98,592	1.0	1.5	1.3	0.5	0.1
ENVIRONMENTAL SPEC 3	63,216	(1.8)	(1.8)	(1.8)	(2.6)	(2.6)
ENVIRONMENTAL SPEC 4	73,260	0.8	1.8	1.3	0.8	0.1
FISCAL ANALYST 2		0.7	1.1	0.9	0.4	0.2
IT APP DEV-JOURNEY		0.3	0.5	0.4	0.2	0.1
REGULATORY ANALYST 2	82,896		0.1	0.1	0.1	
REGULATORY ANALYST 3	93,840	0.2	0.3	0.2	0.1	
<b>Total FTEs</b>		7.7	12.3	10.0	4.7	2.4

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

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

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

NONE

**IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

Parts 1 and 2

Section 104(6) would require Ecology to adopt rules as necessary to implement, administer, and enforce this chapter.

Section 209 would authorize Ecology to adopt rules to accord with recommendations made by the LCB under this section.

Section 214 would also authorize Ecology to adopt rules as necessary to implement, administer, and enforce this chapter.

Ecology assumes one rule combining parts 1 and 2 would be required. This rulemaking would take 2.25 years to complete,

beginning October 1, 2023, and adopted by December 31, 2025.

### Part 3

Section 305 would require Ecology to adopt rule, an additional premium refund value for consistent with Section 309(2)(c).

Section 307 (1) would authorize Ecology to adopt rules to implement, administer, and enforce this chapter.

Ecology assumes rulemaking would be required to implement part 3 of this bill. This rulemaking would take 1.5 years to complete, beginning October 1, 2023, and adopted by April 1, 2025.

## SB 5154 Solid Waste Management - Department of Ecology Fiscal Note Expenditure Overview

By Section

<b>OPERATING BUDGET</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>	<b>FY 2029</b>
<b>Part 1 and 2</b>	<b>1,272,964</b>	<b>1,771,579</b>	<b>1,160,409</b>	<b>753,169</b>	<b>812,885</b>	<b>671,093</b>
Total FTEs	7.8	9.9	7.6	4.9	3.5	3.6
Staff costs	1,045,064	1,320,879	1,016,009	634,819	461,285	469,493
Contracts	180,000	360,000	60,000	45,000	280,000	130,000
Market data		30,000	30,000	30,000	30,000	30,000
Travel Reimbursements	3,500	7,000	7,000	5,250	3,500	3,500
Rulemaking, AGO Costs	44,400	44,400	38,100	38,100	38,100	38,100
Rulemaking, facilitation and facilities		9,300	9,300			
<b>Repeal of current PCRC requirements (Sections 215-219)</b>	<b>(482,000)</b>	<b>(482,000)</b>	<b>(482,000)</b>	<b>(482,000)</b>	<b>(482,000)</b>	<b>(482,000)</b>
Total FTEs	(4.4)	(4.4)	(4.4)	(4.4)	(4.4)	(4.4)
Staff costs	(452,705)	(452,705)	(452,705)	(452,705)	(452,705)	(452,705)
Other Goods & Services	(29,295)	(29,295)	(29,295)	(29,295)	(29,295)	(29,295)
<b>Part 3</b>	<b>567,008</b>	<b>1,112,660</b>	<b>581,255</b>	<b>342,448</b>	<b>624,533</b>	<b>583,324</b>
Total FTEs	4.3	6.7	3.2	2.4	3.0	3.4
Staff costs	534,208	879,860	433,355	319,548	401,633	460,424
Feasibility Study Contract		200,000	125,000			
Litter Tax Study Contract					200,000	100,000
Rulemaking, AGO Costs	26,600	26,600	22,900	22,900	22,900	22,900
Rulemaking, facilitation and facilities	6,200	6,200				
<b>ECOLOGY TOTAL OPERATING FTEs</b>	<b>7.7</b>	<b>12.2</b>	<b>6.4</b>	<b>2.9</b>	<b>2.1</b>	<b>2.6</b>
<b>ECOLOGY TOTAL OPERATING EXPENDITURES</b>	<b>1,357,972</b>	<b>2,402,239</b>	<b>1,259,664</b>	<b>613,617</b>	<b>955,418</b>	<b>772,417</b>

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5154 SB	<b>Title:</b> Solid waste management	<b>Agency:</b> 468-Environmental and Land Use Hearings Office
-----------------------------	--------------------------------------	---

## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.6	0.3	1.3	1.3
<b>Account</b>					
General Fund-State 001-1	0	80,000	80,000	294,000	294,000
<b>Total \$</b>	0	80,000	80,000	294,000	294,000

### 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: Greg Vogel	Phone: 360-786-7413	Date: 01/06/2023
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 01/12/2023
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 01/12/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/24/2023

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

SB 5154 aims to improve Washington's solid waste management outcomes in 3 main ways:

1. Making producers, retailers, importers, etc. of packaging, and publishers/manufacturers of paper products retailers more responsible in managing such products. Producers must join a producer responsibility organization if they wish to sell products. Producers are prohibited from selling products that make a deceptive or misleading claim about recyclability (section 125). Violations are subject to penalty of up to \$1,000 per day per violation (section 124).
2. Making producers of certain household and durable goods and containers meet minimum post-consumer recycled content (PCRC) in their goods and containers (sections 203-209), and track/report PCRC (section 211). Compliance with requirements to occur from January 1, 2024 to January 1, 2036, depending on which requirement. Producers who don't comply are subject to penalty (sections 124, 212). Department of Ecology will administer and enforce PCRC requirements (section 214).
3. Establishing a beverage container deposit return system that pays consumers a 10 cent refund when they return a specific beverage container (sections 303-319). Distributors of beverage containers must join a distributor responsibility organization or fulfill the requirements of such organization (section 304). Ecology will administer and enforce this system (section 307). Ecology may issue penalties for violations of this chapter or PCRC provisions, or issue corrective action orders (section 319).

SB 5154 amends solid waste management laws to add producer of waste packaging/plastic as sharing in the responsibility of solid waste handling, recovery, and recycling. In other words, adding new programs discussed above to pertinent sections of the solid waste management statute.

This bill amends PCHB statutes to add that the PCHB can decide appeals of civil penalties and orders imposed under this bill (section 501), and that civil penalties imposed under this bill must be imposed in writing and describe violation with reasonable particularity (section 502).

FISCAL IMPACT to the Pollution Control Hearings Board: YES

Assume Increased Cases: Enforcement actions and penalties for violating the statute are assumed to be limited but are unknown at this time. ELUHO assumes the PCHB will receive about 7 appeals per year as a result of the bill. We expect these appeals would be of average/medium complexity.

Anticipated timeline: We assume it will take a year from earliest compliance date to enforce noncompliance. PCHB anticipates appeals beginning in January 1, 2025 (FY 25).

Assume ongoing enforcement: Assume ongoing noncompliance, enforcement, and appeals.

Assume New Administrative Appeals Judge (AAJ) FTE – The PCHB will need approximately 0.75 FTE for an AAJ with knowledge of environmental law to assist with these new cases. RCW 43.21B.005(2) authorizes the ELUHO director to appoint such AAJs to assist the PCHB. The AAJ 0.75 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 0.5 FTE for a Legal Assistant 3 to manage the additional cases and AAJ FTE.

Assume no capital budget impact: Currently, ELUHO leases space on the top floor of the State Parks building, Parsons Plaza. We assume we can repurpose space to include the FTEs if they have work stations at the ELUHO office. We assume the 0.75 AAJ FTE position would be offered with the option of working remotely and the Legal Assistant position would be in the office but would not require an office with a door.

**II. B - Cash receipts Impact**

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

NONE. ELUHO does not collect fees, taxes, or other revenue.

**II. C - Expenditures**

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

FISCAL IMPACT to the Pollution Control Hearings Board: YES

ELUHO estimates each appeal resulting from this bill will require approximately 230 hours of Administrative Appeals Judge (AAJ) work to complete (110 pre-hearing hours + 120 hearing and post-hearing hours) x 7 appeals. This estimate is based on a current analysis of AAJ work. This is estimated to be ongoing work.

230 hours/appeal x 7 appeals = 1,610 AAJ hours

ELUHO assumes ELUHO’s work on appeals resulting from the bill begins in January 2025 (FY25) following the planning and outreach conducted by the Department of Ecology.

ELUHO assumes it would hire a 0.75 FTE AAJ and a 0.5 FTE Legal Assistant 3 to do the work required in the bill. An AAJ makes \$100,000 per year, ongoing, plus related benefits estimated at \$32,021 per year, ongoing, at current benefits rates. The agency needs a 0.75 FTE AAJ, so the salary would be \$100,000 x 0.75 FTE = \$75,000. Related benefits would total \$24,016.

A Legal Assistant 3 makes \$55,872 (assumed Step L) per year, ongoing, with related benefits estimated at \$24,059. The agency needs a 0.5 FTE Legal Assistant 3 so salary would be \$55,872 x 0.5 FTE = \$27,936. Related benefits would total \$12,030.

Goods and services are estimated at \$6,488 per year, ongoing, and include communications, payroll processing, training, and other staff costs. Estimates include some travel at the low cost per diem rates totaling \$1,747 per year, ongoing. Also included is one time equipment costs for furniture and computers totaling \$5,557 in fiscal year 2025 (FY25).

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	0	80,000	80,000	294,000	294,000
<b>Total \$</b>			0	80,000	80,000	294,000	294,000

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

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.6	0.3	1.3	1.3
A-Salaries and Wages		52,000	52,000	206,000	206,000
B-Employee Benefits		18,000	18,000	72,000	72,000
C-Professional Service Contracts					
E-Goods and Other Services		4,000	4,000	12,000	12,000
G-Travel		1,000	1,000	4,000	4,000
J-Capital Outlays		5,000	5,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	0	80,000	80,000	294,000	294,000

**III. C - Operating FTE Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Administrative Appeals Judge	100,000		0.4	0.2	0.8	0.8
Legal Assistant 3	55,872		0.3	0.1	0.5	0.5
<b>Total FTEs</b>			0.6	0.3	1.3	1.3

**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**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

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

NONE

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*



# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5154 SB

Title: Solid waste management

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

### Legislation Impacts:

- Cities: Revenue increase from reimbursement on eligible activities, revenue decrease from sale of residential recyclables, decrease in operational and administrative costs
- Counties: Revenue increase from reimbursement on eligible activities, revenue decrease from sale of residential recyclables, decrease in operational and administrative costs, revenue lost from landfill tip fees
- Special Districts:
- Specific jurisdictions only:
- Variance occurs due to: wide variety of service levels, service agreements, commodity values, and regional access to recycling markets

## Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option: Local governments may participate in the producer responsibility program established by the bill to seek reimbursement
- Key variables cannot be estimated with certainty at this time: How cities or counties would participate, reimbursement amounts, change in landfill usage, changes in service levels or service agreements

### Estimated revenue impacts to:

Non-zero but indeterminate cost 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: Tammi Alexander	Phone: 360-725-5038	Date: 01/13/2023
Leg. Committee Contact: Greg Vogel	Phone: 360-786-7413	Date: 01/06/2023
Agency Approval: Jordan Laramie	Phone: 360-725-5044	Date: 01/13/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/24/2023

## **Part IV: Analysis**

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

*Description of the bill with an emphasis on how it impacts local government.*

This bill would establish a program for the management of consumer packaging and paper products to be funded and implemented by producers of those products, including reuse and recycling rate targets, convenient collection service standards, responsible management, infrastructure investments, and education and outreach.

### **B. SUMMARY OF EXPENDITURE IMPACTS**

*Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.*

This bill has a local option for cities and counties to participate in the recycling program. For those cities and counties that do not participate, there is no expenditure impact. For the local governments that chose to participate in the program, they may incur administrative costs associated with amending contracts to reflect the new reimbursements and have decreased costs associated with no longer implementing services. These costs cannot be estimated because it is unknown which cities or counties will participate and at what level.

### **C. SUMMARY OF REVENUE IMPACTS**

*Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.*

This bill has a local option for cities and counties to participate in the recycling program in creates. Cities and counties that participate in the program can be reimbursed for eligible costs by the producer responsibility organization. These amounts cannot be estimated because it is unknown which cities or counties will participate, to what extent, or what activities would be eligible for reimbursement, therefore the revenue increase from reimbursement is indeterminate.

According to Washington State Association of Counties, impacts to county costs revenues will differ widely due to the wide variety of service levels, service agreements, commodity values, and regional access to recycling markets. Some counties will see decreases in revenue from the sale of residential recyclables or revenue sharing agreements they have with their curbside recycling provider through the Utilities and Transportation Commission (UTC). Other counties will see little to no impact to their costs or revenues. Also, the tons of product packaging and printed paper (including glass) currently being sent to the landfill is likely to decrease as residential recycling participation increases. This would create a decrease in the revenue counties receive through landfill tip fees to manage contracts, operations, and outreach and education for materials not covered by this bill.

Below are some examples to help illustrate the diversity of impacts to selected counties:

- Spokane County is expected to receive \$412,000 annually through a UTC revenue sharing agreement with waste management. This revenue funds their outreach and education programs for all programs they offer. The funding provides recycling and waste diversion outreach and education programs for areas in the County serviced by Waste Management. Under the Extended Producer Responsibility (EPR) program, there would no longer be a revenue sharing model. Spokane County would be reimbursed by the EPR organization for outreach and education related to materials covered by the EPR program, but any outreach and education for other materials (organics, hazardous waste, and other programs) previously funded by the revenue sharing would fall on Spokane County to fund through solid waste rate increases or other revenue sources.

- Lincoln County residents are able to drop recycling off at either drop-boxes located in dense areas or at a transfer station. Lincoln County solid waste staff then market the recyclable materials and any revenue from those sales come back to help offset the costs to operate their programs and help offset their required 25% Local Solid Waste Financial Assistance (LSWFA) match. In 2022, Lincoln County received roughly \$50,000 from the sale of materials that would be covered under the EPR program, which slightly exceeds the costs to provide the service. Additionally, Lincoln County sees revenue from residential recycling drop-box charges.

- Stevens County operates similarly to Lincoln County – residents drop off recycling at drop-boxes, the Stevens County Landfill, 4 remote transfer stations, and the County recycle center. In 2022, Stevens County spent roughly \$195,000 in operations and labor costs to support their recycling program. The revenue from the sale of recyclables in 2022 was roughly \$124,000. Under the EPR program, Stevens County would not receive revenue from the sale of recyclables and all labor and operations costs would be covered by the EPR organization. They would see an overall benefit of \$80,000 per year based on 2022 numbers, however abandoned assets and fixed infrastructure that would have been amortized over several years of rates would need to be sold off or put to other purposes.

- Pierce County does not have a revenue sharing agreement and would likely see reimbursement payments from the EPR organization to reimburse them for outreach and education related to EPR materials.

Sources:

Local Government Fiscal Note SSB 5697 (2022)

Washington State Association of Counties