

Multiple Agency Fiscal Note Summary

Bill Number: 5154 S SB	Title: Solid waste management
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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	113,000	0	0	143,000	0	0	122,000
Department of Revenue	0	0	0	470,000	470,000	485,000	5,909,000	5,909,000	6,098,000
Department of Ecology	0	0	(964,000)	0	0	1,260,187	0	0	1,040,993
Total \$	0	0	(851,000)	470,000	470,000	1,888,187	5,909,000	5,909,000	7,260,993

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	.4	0	0	113,000	.5	0	0	143,000	.4	0	0	122,000
Department of Revenue	.1	12,300	12,300	12,300	1.7	344,300	344,300	344,300	1.5	278,700	278,700	278,700
Liquor and Cannabis Board	1.0	0	0	284,733	.5	0	0	151,314	.0	0	0	0
Utilities and Transportation Commission	.4	0	0	129,707	.1	0	0	17,097	.0	0	0	11,398
Department of Health	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Ecology	8.4	0	0	3,342,822	3.4	0	0	1,540,036	1.1	0	0	1,389,494
Environmental and Land Use Hearings Office	.3	80,395	80,395	80,395	1.3	294,432	294,432	294,432	1.3	294,432	294,432	294,432
Total \$	10.6	92,695	92,695	3,962,957	7.5	638,732	638,732	2,490,179	4.3	573,132	573,132	2,096,024

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	.0	0	0	.0	0	0	.0	0	0
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
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

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

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Individual State Agency Fiscal Note

Bill Number: 5154 S SB	Title: Solid waste management	Agency: 100-Office of Attorney General
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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	32,000	81,000	113,000	143,000	122,000
Total \$	32,000	81,000	113,000	143,000	122,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.2	0.6	0.4	0.5	0.4
Account					
Legal Services Revolving Account-State 405-1	32,000	81,000	113,000	143,000	122,000
Total \$	32,000	81,000	113,000	143,000	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:	Phone:	Date: 02/11/2023
Agency Preparation: Allyson Bazan	Phone: 360-586-3589	Date: 02/15/2023
Agency Approval: Joe Zawislak	Phone: 360-586-3003	Date: 02/15/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 02/15/2023

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.

Sections. 101 – 128 Part One: Producer Responsibility for Packaging and Paper Products.

Producers of paper products and packaging (covered PPP) must participate in a producer responsibility organization (PRO) that is required to carry out specified activities, including the implementation of an approved PRO plan.

Producers are defined to include specified entities associated with covered PPP but do not include government entities, nonprofit organizations, or entities that sell, distribute, or import de minimis volumes of paper products or packaging.

Packaging is defined to include various materials, including single-use items that facilitate food or beverage consumption, but does not include materials intended for long-term use associated with durable products, materials used to package federally regulated pesticide products or animal biologic products, reusable or refillable propane gas containers, paint containers, newspaper, paper used for building construction, or certain products that are individually or categorically excluded temporarily after a determination is made by the Department of Ecology (Ecology).

Significant program implementation deadlines applicable to producers and the PROs in which they participate include:

- By July 15, 2024, producers that offer for sale, sell, or distribute covered PPP in Washington must join a PRO registered with Ecology or register as a PRO. Registrations must be updated annually with Ecology.
- Beginning in June of 2025, PROs must submit an annual payment to Ecology to cover Ecology's administration and oversight costs and other specified costs related to the program implemented by a PRO, based on an annual workload analysis completed by Ecology beginning in April 2025.
- Within six months after the adoption of Ecology rules, registered PROs must submit an implementation plan to Ecology for approval.
- Beginning January 1, 2028, or within six months after Ecology's approval of a submitted plan, whichever is later, PROs must begin implementing the approved plan.
- Beginning July 1, 2029, PROs must submit an annual report to Ecology.

For the first plan implementation period, Ecology may approve only a single PRO, exclusive of any producers independently fulfilling the responsibilities of a PRO. The bill provides additional implementation logistical details to PROs that register with Ecology after 2026. Ecology must review and may approve submitted plans and annual reports, and additional logistical details are provided in the event that a submitted plan or report is not approved by Ecology. Specific duties and authorities are assigned to Ecology, including the authority to adopt rules, to issue civil penalties and orders, and carry out specified tasks, such as:

- the maintenance of a public website;
- the completion of a performance rates study by September 1, 2024, that recommends performance rates for the reuse and recycling of covered PPP; and
- the completion of a statewide needs assessment by July 1, 2025, that evaluates the costs, gaps, and needs for recycling services and infrastructure for covered PPP, as well as other components of the PRO programs to be implemented for covered PPP.

Ecology must seek to harmonize its adopted rules with regulatory standards, exemptions, reporting obligations, and other compliance requirements of other states that have adopted similar programs, except where conflicts exist with Washington program requirements established in statute.

An advisory council is created, with membership representing specified interests to be appointed by Ecology. The advisory council is given specified responsibilities with respect to aspects of PRO program implementation and Ecology's oversight of those programs, including: (1) responsibility for advising or commenting on the performance rates study, and the needs

assessment prior to their completion; and (2) the program plans, and annual reports submitted to Ecology, prior to Ecology's determination of whether to approve plans and reports. For certain aspects of program implementation, the PRO must also seek input from the Utilities and Transportation Commission (UTC).

PRO plans for covered PPP must contain specified components governing the major components of the producer responsibility program for covered PPP that the PRO is obligated to implement, including: (1) information regarding program financial structures and investments in recycling infrastructure; (2) education and outreach activities; and (3) collection of covered PPP. The plan must also include other detailed information regarding the products managed through the PRO, and other waste reduction and recycling outcomes to be achieved by the PRO. Plans submitted to Ecology have a duration of five years. Plans must include a contingency plan component that demonstrates how plan activities will be carried out by an entity other than the PRO in the event that the PRO is unable to carry out plan implementation for specified reasons.

PRO plans, and the program implemented by a PRO, must provide for:

- the collection and management of covered PPP in a manner that meets specified standards, including:
- environmental performance standards to be achieved by any recycling technologies other than mechanical recycling; and
- the reporting of information to Ecology by material recovery facilities and other processing facilities managing covered PPP under the program;
- the achievement of specified types of recycling and reuse performance rates proposed in the PRO's Ecology-approved plan;
- full funding of the PRO's operations in a manner that does not involve a point-of-sale fee charged to consumers, but that is instead based on a system of fees collected from participating producers of covered PPP, including:
 - a de minimis level at which no fees are charged; additional charges for producers of postconsumer recycled content (PCRC) products, who have additional regulatory obligations managed by the PRO; and
 - the use of eco-modulation factors to incentivize the use of design attributes that reduce the environmental impacts of covered PPP;
- activities to make convenient collection services for covered PPP that are designated for collection under the plan, including:
 - curbside collection to residential customers wherever curbside garbage collection services are provided to those customers, unless a county adopts an ordinance to provide for alternative recycling service in those areas; and
 - the use of permanent collection facilities in other specified circumstances
- the funding of investments in reuse and recycling infrastructure and market development, as needed to achieve the convenience standards for collection services, management standards for covered PPO collected by the program, performance outcomes identified in the plan, and any other infrastructure gaps identified by the needs assessment
- education and outreach activities, including the performance of specified types of activities and the development of certain materials for communicating with the public; and
- the coordination of multiple plans and programs on specified components of program implementation, such as education and outreach activities and the identification of covered products for collection, in the event that multiple PROs form and register with Ecology to implement a plan or a distributor responsibility organization (DRO) forms to implement a deposit return system (DRS).

Each PRO must submit an annual report on the prior calendar year's program implementation activities. The annual report must contain data, descriptions and information sufficient to allow Ecology to determine whether the PRO has fulfilled its plan and program implementation obligations, and other specified types of information. Prior to the submission of the annual report, all nonfinancial data and information must be audited annually by an accredited third party, and a separate independent financial audit performed by an independent auditor must be performed and submitted to Ecology.

Local governments that use contracting authority for recyclable material collection are not obligated to participate in a PRO's plan. Existing city and county authorities to establish solid waste systems are not limited by the establishment of PROs for covered PPP, including the authority to include materials in curbside collection that are not part of the statewide list of covered PPP designated for collection under the PRO's program. Curbside collection of recyclable materials in areas

where the UTC oversees the collection of solid waste must be provided by companies that hold UTC-issued solid waste certificates. PROs must provide reimbursement to UTC-certified solid waste service providers in accordance with rates approved by the UTC. To be eligible for reimbursement from a PRO, a UTC certified solid waste company must provide service that offers single-family and multifamily residential recyclable material collection services for covered PPP wherever garbage services are offered unless the county has adopted an ordinance providing for alternative collection of covered materials.

Government entities may enter into contractual agreements with PROs for purposes of cost reimbursement. The PROs must reimburse government entities for services delivered in accordance with base cost formulas established in the PRO's plan for curbside collection services, and in accordance with other reimbursement rates for non-curbside collection services that must also be established in the PRO's plan. Government entities that receive reimbursement for costs incurred in delivering curbside collection services must report or publish reimbursed costs to residents annually and as part of any solid waste rate increase notifications.

The source separation strategies of waste reduction and recycling elements contained in a local government's solid waste plans must include PRO programs for covered PPP, and any DRS for beverage containers operated by a DRO. Solid waste management plans may reference PRO plans to fulfill source separation strategy requirements beginning in 2026 and must reference PRO and DRO plans beginning in 2027 for purposes of the local government's recycling contamination reduction and outreach plan element.

Producer responsibility organizations and material recovery or processing facilities may request that information submitted to Ecology be kept confidential, and Ecology must keep that information confidential if not detrimental to the public interest. The PROs may not use funds collected for purposes of implementing a plan for certain purposes, such as payment of administrative penalties or litigation.

Ecology may impose civil penalties on persons in violation of requirements. If a PRO does not meet a significant requirement, Ecology may additionally issue orders to a PRO, revoke the PRO's plan approval, require a PRO to revise and resubmit a plan, or report additional information. Penalties from Ecology are appealable to the Pollution Control Hearings Board (PCHB).

The UTC must review PRO reimbursement of regulated service providers and must require UTC certificate holders to implement services designated by a PRO in an approved plan for the management of covered PPP. The UTC-regulated solid waste companies must meet curbside collection service standards established in an approved PRO plan for the management of covered PPP. Services contained in the base rate charged by solid waste collection companies include costs related to the implementation of services designated by a PRO in an approved plan. Covered PPP and beverage containers under a DRS are excluded from the recyclable materials collected by a UTC-regulated solid waste collection company that the company may retain up to 50 percent of the revenue from.

Secs. 201 – 220 Part Two: Postconsumer Recycled Content Requirements.

The compliance logistics for covered PPP whose producers participate in a PRO and which are subject to existing minimum PCRC requirements, including plastic beverage containers and personal care and household cleaning product containers that are not regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), are shifted so that registration, annual fee payment, reporting, and penalties related to PCRC requirements are managed through the PRO, rather than directly by Ecology.

Ecology retains direct management responsibility for PCRC requirements for products other than covered PPP that remain subject to PCRC requirements such as plastic trash bags and FIFRA-regulated household cleaning and personal care products. For products directly managed by Ecology, producers must submit an annual certificate of compliance to Ecology

The method of imposing penalties for violations of PCRC requirements is also changed from a per-pound of

underperformance penalty to a per-day-of-violation penalty.

The scope of products subject to minimum PCRC requirements is expanded to include new products, some of which are covered PPP and whose PCRC obligations are managed through the PRO, and some of which are not covered PPP and whose PCRC obligations are managed directly by Ecology. Specifies the products that are to be managed through the PRO and have new PCRC requirements established for their plastic containers.

The Liquor and Cannabis Board (LCB) is directed to update its rules related to the packaging of cannabis products to reduce the use of plastic packaging in amounts commensurate with the source reduction rates proposed by a PRO, and to allow for and encourage the use of reusable containers. In consultation with Ecology, the LCB may also adopt minimum PCRC requirements for cannabis packaging of up to 25 percent through 2030 and at least 50 percent beginning in 2031.

De minimis producers are made exempt from PCRC requirements, but must annually notify the PRO or Ecology, as appropriate, of the producer's de minimis status. For annual reporting regarding PCRC products managed through the PRO, the PRO must include a certification from an accredited independent third party verifying the quantity and dates of PCRC material purchases. Ecology must review and determine whether to approve PCRC annual reports. Producers of PCRC products may petition for temporary exclusions and PCRC rate adjustments for an upcoming year in a manner similar to the processes available to PCRC products directly overseen by Ecology, but petitions must be submitted through the PRO.

Secs. 301 – 319 Part Three: Deposit Return System.

As an alternative to satisfying its covered PPP obligations for qualifying beverage containers (QBCs), a PRO may not consider QBCs to be covered PPP upon the establishment of a DRS for QBCs by a DRO. An individual beverage distributor may form a DRO and implement a DRS, or a group of beverage distributors representing a majority of beverages sold in QBCs may form a DRO. Qualifying beverage containers include individual, separate, sealed glass, metal, or plastic bottles or cans other than cartons, foil, pouches, drink boxes, or metal containers that require a tool to be opened, and exclude containers for dairy milk, infant formula. Beverage containers of less than four ounces or more than one gallon are not QBCs.

By July 1, 2024, or four months after a DRO is approved by Ecology, distributors of QBCs must join a DRO. Distributors that do not join a DRO or independently fulfill a DRO's responsibilities may not sell beverages in QBCs after October 1, 2024, or 120 days after DRO approval by Ecology. The DROs must register and submit initial information to Ecology related to covered QBCs and DRO members and must begin submitting annual reports containing additional specified information to Ecology after the DRS has been implemented. Ecology will review annual reports, makes public DRO reports, and may review the financial records of a DRO related to the accuracy of the QBC redemption rate reported to Ecology. Ecology may require a DRO to retain an independent audit firm to determine redemption rate accuracy. Distributor responsibility organization annual reports must also include verification from a third-party financial audit confirming the DRO's budget, the total value of unclaimed refunds, and a verification that funds represented by the unclaimed refunds were not distributed to members of the cooperative as a dividend.

Distributor responsibility organizations must submit annual payments to Ecology to cover implementation, administration, and enforcement costs, including rulemaking. Annual payments are based on a workload analysis prepared by Ecology, except for annual payments by independent distributors independently fulfilling a DRO's obligations, who must pay Ecology an annual payment for oversight at a rate of 10 cents per QBC. Ecology may also issue penalties of the greater of at least 15 cents per bottle or \$10,000 on any distributor that fails to participate in a DRO. Penalties are appealable to the PCHB.

By July 1, 2026, or within 180 days of Ecology's adoption of rules, a DRO must submit a plan for implementing a DRS. A DRO may require the collection of deposits for up to 60 days prior to the start of the DRS to offset refund values for QBCs. A DRO may not distribute funds from unclaimed refunds as a dividend to members of the DRO.

By January 1, 2031, a DRO must demonstrate that all QBCs are designed to be reusable or recyclable. The DRO plans must also achieve performance requirements. The DROs that fail to achieve these performance rates must pay a penalty of 10 cents per container below the number of containers that would have satisfied the redemption performance rate. Ecology may alternatively identify priority areas for additional drop-off access to be provided in lieu of a penalty. Penalties may not be assessed for lack of achievement of reuse performance requirements. Ecology may also impose penalties of between \$200 and \$500 per day for significant plan implementation violations or performance requirement violations, after a 60-day period to come into compliance.

The DROs must submit a plan meeting specified criteria, and Ecology must base its determination to approve a plan on those criteria. The QBCs covered by a DRO plan must carry a clear and conspicuous marking of the 10-cent refund value through the abbreviation "WARV" or an alternative abbreviation approved by Ecology. Wine containers may satisfy this labeling requirement through a quick response (QR) code. The DROs must include a method in their plans for paying an additional refund value premium for containers returned by nonprofit organizations that serve very low-income individuals who rely on regular container refunds through the DRS as a source of daily funds. Distributor responsibility organization plans must include education and outreach activities, including the development of materials and campaigns, the use of media channels, and the establishment of a process for resolving consumer concerns.

The DROs must provide a convenient bulk drop-off option for bagged QBCs at geographically dispersed locations. All drop sites must be paid for in full by a DRO. Customers may not be charged for this drop off service and must credit back the cost of any required bag purchase. The DROs must provide at least 270 bag drop sites, including at least one in each county and each island community served by the state ferry system. Bag sites must be distributed by county proportional to the volumes of QBCs sold in counties. Within two years of DRS system implementation, a DRO must increase the number of drop sites to 280. Five years after, the DRO is required to provide 280 drop sites, and every five years after, the DRO must calculate whether beverage sale volumes have increased, and if so, must proportionally increase drop-off site locations. Drop-off locations may be located at retail establishments, but retail establishments are not required to accept returned QBCs or to allow a drop-off location. Certain large retailers must install a self-serve kiosk to print redemption vouchers, pay the value of redemption vouchers, and sell bags for redemption.

A consumer convenience advisory council of at least eight members representing specified interests must be formed by a DRO to identify potential bag drop-off locations and achieve consumer convenience. Ecology, in partnership with the DRO, must conduct an assessment of consumer convenience after five years of DRS implementation.

Drop-off bags made of plastic film must be at least 50 percent recycled content, and waste from film bags must be recycled by DROs in the best commercially available manner. The DROs are not required to accept or pay refunds for contaminated, crushed, broken, or damaged containers, or containers the DRO has reasonable grounds to believe were not purchased through the Washington DRS.

Distributors, manufacturers, or importers that fail to pay a QBC refund value to the DRO are liable for treble the collection costs incurred by a DRO for QBCs sold without the refund value. Distributor responsibility organizations must pay the full refund value for QBCs returned to the DRO by material recovery facilities, government entities, and other processors if certain criteria are met. People and businesses are not required to use DRS infrastructure and are not precluded from disposing of QBCs via curbside recycling collection systems.

For the first five years of DRS implementation, a DRO must remit \$15 million each year to the Department of Commerce (Commerce) for the implementation of a new Recycling Revenue Augmentation Fund (RRAF). Commerce must accept requests from local governments or curbside or drop-off recycling programs to receive RRAF funds to offset revenue losses due to the diversion of scrap material to the DRS. Requests must include third-party audited financial data demonstrating revenue losses. Commerce must evaluate these requests and determine the validity of the data, and distribute funds proportionately based on valid requests. As an alternative to participating in a DRO, a manufacturer of beverages that is also a distributor and sells or distributes no more than 10,000 beverages per year in Washington may operate an independent refund program. Ecology may approve an independent refund program if the beverages are packaged in

reusable qualifying beverage containers, the manufacturer offers a refund value for containers that is greater than the amount offered by the DRO, and Ecology determines that the plan provides convenient return pathways for consumer containers. Independent refund plans must include annual reports, and authority to implement a plan can be revoked by Ecology for not providing sufficient performance or not meeting consumer convenience requirements.

Secs 401 to 603: Conforming Amendments and Other Provisions.

Covered PPP of products may not make misleading or deceptive claims about product recyclability. Certain types of claims are specified to be misleading or deceptive, or to not be considered misleading or deceptive. Federal criteria may be adopted in lieu of these requirements. Local governments are prohibited from enforcing ordinances prohibiting products from making specified claims about the recyclability of products.

Ecology may participate in the development and operation of a regional or multistate clearinghouse for the purposes of facilitating laws and rules on packaging and paper products, including extended producer responsibility requirements, PCRC requirements, and requirements established by other specified state laws that regulate covered PPP, including laws regulating the toxic content of PPP. Ecology may direct producers to register and submit data, reports, fees, and payments to the clearinghouse in lieu of Ecology.

By December 1, 2025, Ecology must contract with an independent third party to complete a feasibility study to: identify options to improve the convenience experienced by consumers with unwanted products or packaging covered by product stewardship, extended producer responsibility, or takeback programs; and consider tradeoffs associated with options that might improve outcomes for consumers and the management of unwanted products. Ecology must also deliver policy recommendations to the Legislature. In consultation with PROs and DROs, Ecology and the Department of Revenue must study the impacts of producer and distributor requirements on the litter rates of covered PPP and beverage containers, and possible improvements to the structure of the litter tax. Ecology, in consultation with the Department of Revenue, must provide recommendations to the Legislature on the applicability of the litter tax to covered PPP and beverage containers and improvements to the litter tax structure.

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 agencies are the Department of Ecology (Ecology) and the Liquor and Cannabis Board (LCB). 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 agencies' fiscal note. Appropriation authority is necessary in the AGO budget.

AGO AGENCY ASSUMPTIONS:

Ecology will be billed for non-Seattle rates:

FY 2024: \$24,000 for 0.10 Attorney General FTE (AAG) and 0.05 Legal Assistant 3 FTE (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 continuing in each FY thereafter.

LCB will be billed for Seattle rates:

FY 2024: \$8,000 for 0.03 AAG and 0.02 LA.

FY 2025: \$10,000 for 0.04 AAG and 0.02 LA.

FY 2026: \$21,000 for 0.08 AAG and 0.04 LA.

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:

This bill is assumed effective 90 days after the end of the 2023 legislative session.

Location of staffing is assumed to be in a Seattle and 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 Assistant Attorney General FTE (AAG), the AGO includes 0.5 FTE for a Legal Assistant 3 (LA) and 0.25 FTE of a Management Analyst 5 (MA). The MA is used as a representative classification.

Assumptions for the AGO Ecology Division (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 FY 2024 and FY 2025:

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 placed under the EPR program by Sections 201 through 212):

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, measuring performance rates for each material category, and recycled content requirements. Ecology assumes rules will be complex, highly technical, and will take 2.25 years, starting Oct 2023 and finishing December 2025.

FY 2024 and FY 2025: 0.10 FTE AAG

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 July 2024, determining responsible parties starting July 2024, (enforcement letters, penalties) starting in FY 2025 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 (PCHB)).

FY 2025: 0.12 FTE AAG and continuing in each FY thereafter.

For amendments to RCW 70A.245 (Sections 213 through 220):

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 214, 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, and plant pots/trays).

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 PCHB if producers are not providing certificate of compliance demonstrating recycled content for 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 319):

i. Advice on complex rulemaking in FY 2024, FY 2025, and first part of FY 2026. Subjects include clarifying deposit return system requirement, determining excluded beverages, and Deposit Return Organization (DRO) fee structure.

ii. Advice and representation in support of Ecology's enforcement under Section 315 to ensure beverage distributor participation in DRO plan and DRO compliance such as registration and annual fee payments starting 2025, compliance with post-consumer recycled content requirements, and addressing possible DRO appeals to PCHB.

FY 2025: 0.06 AAG and continuing in each FY thereafter.

FY 2026: 0.15 AAG for EPR program and 0.09 AAG for DRO program.

ECY: Total non-Seattle workload impact:

FY 2024: \$24,000 for 0.10 AAG and 0.05 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 continuing in each FY thereafter.

Assumptions for the AGO Licensing & Administrative Law Division (LAL) legal services for the Liquor and Cannabis Board (LCB):

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

LAL provides advice to LCB on rulemaking and implementation of legislation.

Section 503 of this bill imposes rulemaking requirements on LCB. That section requires that the Board, in consultation with Ecology, develop rules implementing the legislation by July 1, 2026.

The rulemaking required the legislation is highly technical, requiring that LCB implement rules that reduce "the use of plastic packaging in an amount that is at least commensurate with the source reduction rates for covered products proposed by a producer responsibility organization under section 111(1)(a)(iii) of this act." The rules must "take into consideration the availability of recycled plastic" as well as the "technical feasibility of source reduction, reuse, and postconsumer recycled content requirements." These are highly technical rulemaking areas and LCB will require significant effort to meet the rulemaking requirements.

LCB projects that it anticipates rulemaking will persist for the duration of the project, through at least July 1, 2026. And that rulemaking will require a minimum of 1.0 FTE for each FY.

On this basis LAL projects that it will provide rulemaking advice, including coordination with AAGs representing Ecology, in each fiscal year. FY 2026 will see the greatest need for rulemaking advice.

Further, it is likely that any rules formulated to implement this bill will require an enforcement mechanism. LAL advises LCB on final orders in enforcement matters, but because the nature of any enforcement, and the number of any enforcement matters is unknown, LAL cannot determine a fiscal impact at this time.

LAL: Total Seattle workload impact:

FY 2024: \$8,000 for 0.03 AAG and 0.02 LA.

FY 2025: \$10,000 for 0.04 AAG and 0.02 LA.

FY 2026: \$21,000 for 0.08 AAG and 0.04 LA.

Total workload impact:

FY 2024: \$32,000 for 0.13 AAG and 0.07 LA.

FY 2025: \$81,000 for 0.32 AAG and 0.16 LA.

FY 2026: \$82,000 for 0.32 AAG and 0.16 LA.

FY 2027: \$61,000 for 0.24 AAG and 0.12 LA and continuing in each FY thereafter.

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	State	32,000	81,000	113,000	143,000	122,000
	Revolving Account						
Total \$			32,000	81,000	113,000	143,000	122,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.2	0.6	0.4	0.5	0.4
A-Salaries and Wages	21,000	54,000	75,000	96,000	82,000
B-Employee Benefits	7,000	18,000	25,000	31,000	26,000
E-Goods and Other Services	4,000	9,000	13,000	16,000	14,000
Total \$	32,000	81,000	113,000	143,000	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	0.1	0.3	0.2	0.2	0.2
Assistant Attorney General-Seattle	124,635	0.0	0.0	0.0	0.0	
Legal Assistant 3	55,872	0.1	0.1	0.1	0.1	0.1
Legal Assistant 3-Seattle	67,044	0.0	0.0	0.0	0.0	
Management Analyst 5	91,524	0.0	0.1	0.1	0.1	0.1
Total FTEs		0.2	0.6	0.4	0.5	0.4

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Ecology Division (ECY)	24,000	71,000	95,000	122,000	122,000
Licensing & Administrative Law Division (LAL)	8,000	10,000	18,000	21,000	
Total \$	32,000	81,000	113,000	143,000	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.

Department of Revenue Fiscal Note

Bill Number: 5154 S SB	Title: Solid waste management	Agency: 140-Department of Revenue
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax				470,000	5,909,000
Waste Reduct/Recycle/Litter Control Account-State 04 - St & Misc Rev 06 - Litter Control Reven				15,000	189,000
Total \$				485,000	6,098,000

Estimated Expenditures from:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1		0.1	1.7	1.5
GF-STATE-State 001-1	12,300		12,300	344,300	278,700
Total \$	12,300		12,300	344,300	278,700

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/11/2023
Agency Preparation: Spencer Brien	Phone: 60-534-1528	Date: 02/14/2023
Agency Approval: Valerie Torres	Phone: 60-534-1521	Date: 02/14/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 02/15/2023

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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.

Note: This fiscal note reflects language in SSB 5154, 2023 Legislative Session.

This fiscal note addresses all of Part 3 and Section 506 of the bill which impact the Department of Revenue (department).

COMPARISION OF SUBSTITUTE BILL WITH ORIGINAL BILL:

The substitute bill clarifies the implementation date for a Deposit Return System is July 1, 2027. Distributor Responsibility Organizations may begin to require the collection of deposits 60 days prior to July 1, 2027, or on May 1, 2027. These dates change the timing of when B&O tax and Litter tax revenue impacts occur.

CURRENT LAW:

The department is not involved in a litter tax study at this time.

BUSINESS AND OCCUPATION TAX:

Washington levies the business and occupation (B&O) tax, on gross income from Washington-based business activity. The tax rate varies by classification. For retailing activities, the tax rate is 0.471%.

LITTER TAX:

Washington levies the litter tax on manufacturers, wholesalers, and retailers of products which contribute to the litter problem in the state. Among other products, the litter tax applies to soft drinks and carbonated beverages, glass containers, and metal containers. The rate is .00015 of the taxable amount.

PROPOSAL:

The bill requires the Department of Ecology and the department to conduct a study of the impact of new requirements for the producers and distributors of certain products that contain packaging materials. The study will examine the impact of the new requirements on litter rates for the covered products. The study will also examine whether the current litter tax administration, compliance, or incidence could be improved. The department of ecology will consult with the department whether the litter tax is meeting the legislative purposes.

The Department of Ecology will provide recommendations to the appropriate legislative committees by January 1, 2029.

The bill requires all qualifying beverage containers sold in the state to have a refund value of 10 cents. This refund value increases the gross receipts of retail businesses subject to the B&O tax. The refund value also increases the taxable value of products subject to the litter tax.

EFFECTIVE DATE:

The bill takes effect 90 days after final adjournment of the session.

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.

ASSUMPTIONS:

- The deposit paid to purchase the beverage containers are subject to retailing B&O tax.
- This estimate assumes that all retailers will separate the deposit from the retail sale amount. If the retailer states the charge for the deposit separately in the transaction and the separately stated charge equals the refund amount, then the

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deposit is exempt from retail sales tax. If the charge is not separately stated and not equal to the deposit amount, then the charge is retail sales taxable.

- The Department of Ecology estimates the total volume of eligible beverage containers sold in Washington at 5 billion units in 2021.

- The volume of beverage containers sold in Washington will grow at an average rate of 3.067%

- The Deposit Return System will be implemented on July 1, 2027. Distributor Responsibility Organizations will begin to require the collection of deposits 60 days prior to that date on May 1, 2027.

-The deposit paid to purchase the beverage containers is subject to the litter tax. The litter tax rate is .00015 of the taxable amount.

DATA SOURCES:

- Department of Ecology, Assumptions

- Bureau of Economic Analysis, Per capita food and beverage purchases 1997-2020

REVENUE ESTIMATES:

The bill increases total state revenues by an estimated \$485,000 in the two months of impacted collections in fiscal year 2027, and by \$3,003,000 in fiscal year 2028, the first full year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2024 - \$ 0

FY 2025 - \$ 0

FY 2026 - \$ 0

FY 2027 - \$ 485

FY 2028 - \$ 3,003

FY 2029 - \$ 3,095

Local Government, if applicable (cash basis, \$000): None

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.

ASSUMPTIONS:

- This legislation affects 59,000 taxpayers for the bottle deposit return system.

- The bottle deposit return system will be fully implemented in fiscal year 2027.

- The litter tax study will take place in fiscal year 2028 and fiscal year 2029.

FIRST YEAR COSTS:

The department will incur total costs of \$12,300 in fiscal year 2024. These costs include:

Labor Costs - Time and effort equates to 0.1 FTE.

- Update or create information materials, publications, and online information.

SECOND YEAR COSTS:

The department will not incur any costs in fiscal year 2025.

THIRD YEAR COSTS:

The department will not incur any costs in fiscal year 2026.

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FOURTH YEAR COSTS:

The department will incur total costs of \$344,300 in fiscal year 2027. These costs include:

Labor Costs - Time and effort equate to 3.4 FTEs.

- Test and verify computer systems for new deduction.
- Create a Special Notice and identify publications and information the department may need to create or update on the department's website.
- Answer additional phone calls on tax questions and tax return preparation from businesses, individuals, and accountants.
- Respond to tax ruling requests and email inquiries.
- Process paper correspondence, respond to web messages, and conduct account examinations.
- Hear additional administrative reviews that provide taxpayers with an informal, non-adversarial dispute resolution process for the review of a disputed action by the department.

Object Costs - \$16,800.

- Computer system changes, including contract programming.
- Print and mail a Special Notice to affected taxpayers.
- Print and mail documents, correspondence, and returns.
- Purchase of one additional agent seat license for the Telephone Information Center.

FIFTH YEAR COSTS:

The department will incur total costs of \$220,700 in fiscal year 2028. These costs include:

Labor Costs - Time and effort equate to 2.3 FTEs.

- Participate in study and attend meetings, report out, and review draft report.
- Respond to data requests and questions, compile statistics, and analyze data.
- Test and verify computer systems for new deduction.
- Answer additional phone calls on tax questions and tax return preparation from businesses, individuals, and accountants.
- Process paper correspondence, respond to web messages, and conduct account examinations.
- Conduct additional administrative reviews of notices and assessments.

SIXTH YEAR COSTS:

The department will incur total costs of \$58,000 in fiscal year 2029. These costs include:

Labor Costs - Time and effort equate to 0.6 FTE.

- Participate in study and attend meetings, report out, and review draft report.
- Respond to data requests and questions, compile statistics, and analyze data.
- Answer additional phone calls on tax questions and tax return preparation from businesses, individuals, and accountants.

ONGOING COSTS:

There are no further ongoing costs.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1		0.1	1.7	1.5
A-Salaries and Wages	7,500		7,500	189,500	177,900
B-Employee Benefits	2,500		2,500	62,600	58,600
C-Professional Service Contracts				6,600	
E-Goods and Other Services	1,600		1,600	62,200	32,100
J-Capital Outlays	700		700	23,400	10,100
Total \$	\$12,300		\$12,300	\$344,300	\$278,700

III. B - Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
EXCISE TAX EX 2	55,872				0.7	0.5
EXCISE TAX EX 3	61,632				0.4	0.3
MGMT ANALYST4	73,260				0.1	0.2
TAX INFO SPEC 1	44,808				0.5	0.3
TAX POLICY SP 2	75,120	0.1		0.1	0.1	
TAX POLICY SP 3	85,020				0.1	0.3
Total FTEs		0.1		0.1	1.7	1.5

III. C - 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

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 5154 S SB	Title: Solid waste management	Agency: 195-Liquor and Cannabis Board
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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	1.0	1.0	1.0	0.5	0.0
Account					
Dedicated Cannabis Account-State 315-1	144,419	140,314	284,733	151,314	0
Total \$	144,419	140,314	284,733	151,314	0

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/11/2023
Agency Preparation: Colin O Neill	Phone: (360) 664-4552	Date: 02/13/2023
Agency Approval: Aaron Hanson	Phone: 360-664-1701	Date: 02/13/2023
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 02/13/2023

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.

NEW SECTION. Sec. 503. A new section is added to chapter 69.50 RCW to read as follows:

LIQUOR AND CANNABIS BOARD PACKAGING REQUIREMENTS.

(1) By July 1, 2026, the board, in consultation with the department of ecology, must update the rules adopted under RCW 69.50.342 [Rules] and 69.50.345 [Rules Procedures and Criteria] related to the nature, form, and capacity of containers used by licensees under this chapter, with a goal of:

(a) Reducing the use of plastic packaging in an amount that is at least commensurate with the source reduction rates for covered products proposed by a producer responsibility organization under section 111(1)(a)(iii) of this act; and

(b) Allowing for and encouraging the reuse of containers for cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products.

(2) In addition to the source reduction and reuse to be achieved under subsection (1) of this section, the board may establish minimum postconsumer recycled content requirements for packaging of at least 25 percent postconsumer recycled content by weight through the year 2030, and at least 50 percent postconsumer recycled content plastic by weight beginning in the year 2031. If postconsumer recycled content requirements are established for packaging under this subsection, the board may require that producers of packaging report any required data, annual reports, fees, and annual payments, and any additional information or documentation to the board or to the department of ecology using the clearinghouse established in section 125 of this act.

(3) Rules adopted by the board under this section must:

(a) Not compromise public health, safety, or packaging integrity;

(b) Take into consideration the availability of recycled plastic suitable to meet any minimum postconsumer recycled content requirements established under this section; and

(c) Take into consideration the technical feasibility of source reduction, reuse, and postconsumer recycled content requirements.

CHANGES MADE BY THE SUBSTITUTE VERSION:

This substitute bill strips out all references to cannabis from the old sections 203 and 209. Section 503 is now rewritten so that instead of modifying RCW 69.50.342, it is a new chapter in 69.50.

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.

ASSUMPTIONS:

Section 503(1): By July 1, 2026, the board, in consultation with the department of ecology, must update the rules adopted under RCW 69.50.342 [Rules] and 69.50.345 [Rules Procedures and Criteria] related to the nature, form, and capacity of containers used by licensees under this chapter.

DIRECTOR'S OFFICE

Rulemaking:

The provisions in Section 503 are likely to cause significant rulemaking by the Board until July 2026. The rulemaking component of this is substantial and ambiguous (“the nature, form and capacity of containers”). There is also going to be significant discussion on what “public health, safety and packaging integrity” means (may go into the child-proof/resealable AND childproof discussions). Additionally, the “consultation” element with Department of Ecology adds a layer of complexity and ambiguity.

Therefore, the Director's Office anticipates workload impact of 1 FTE Regulatory Analyst 3 (RA3) for FY24-26.

1.0 FTE Regulatory Analyst 3 - \$130,314/yr (\$127,544 salary/benefits, \$2,770 in associated costs). Onetime costs in FY24 of \$6,105 for equipment purchases.

Attorney General's Office:

The Attorney General's Office anticipates workload associated with the rulemaking required under this bill.

FY24: \$8,000
 FY25: \$10,000
 FY26: \$21,000

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
315-1	Dedicated Cannabis Account	State	144,419	140,314	284,733	151,314	0
Total \$			144,419	140,314	284,733	151,314	0

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.0	1.0	1.0	0.5	
A-Salaries and Wages	96,156	96,156	192,312	96,156	
B-Employee Benefits	31,388	31,388	62,776	31,388	
C-Professional Service Contracts					
E-Goods and Other Services	10,735	12,630	23,365	23,630	
G-Travel					
J-Capital Outlays	6,140	140	6,280	140	
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	144,419	140,314	284,733	151,314	0

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Regulatory Analyst 3	96,156	1.0	1.0	1.0	0.5	
Total FTEs		1.0	1.0	1.0	0.5	0.0

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Board Division (010)	144,419	140,314	284,733	151,314	
Total \$	144,419	140,314	284,733	151,314	

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 503(1): By July 1, 2026, the board, in consultation with the department of ecology, must update the rules adopted under RCW 69.50.342 [Rules] and 69.50.345 [Rules Procedures and Criteria] related to the nature, form, and capacity of containers used by licensees under this chapter.

Individual State Agency Fiscal Note

Bill Number: 5154 S SB	Title: Solid waste management	Agency: 215-Utilities and Transportation Commission
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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	0.4	0.5	0.4	0.1	0.0
Account					
Public Service Revolving Account-State 111-1	59,348	70,359	129,707	17,097	11,398
Total \$	59,348	70,359	129,707	17,097	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:	Phone:	Date: 02/11/2023
Agency Preparation: Amy Andrews	Phone: 360-481-1335	Date: 02/13/2023
Agency Approval: Amy Andrews	Phone: 360-481-1335	Date: 02/13/2023
OFM Review: Tiffany West	Phone: (360) 890-2653	Date: 02/14/2023

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, 2024, 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:

Opportunity to provide comment on the plan required in Section 103 30 days prior to the plan being submitted.

The Substitute removed the requirement for the Commission to review cost reimbursement formulas.

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 service is provided, except in areas where a county has adopted an ordinance after the effective date of this section that designates covered products must be collected exclusively through alternate collection, and except for covered products designated for alternate collection under a producer responsibility organization plan.

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

The substitute changes Subsection (2) to require a PRO, in areas regulated by the Commission under RCW 81.77, to meet its obligation through curbside collection as described in Section 114 of this act.

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

The substitute adds (4) which requires each PRO to provide a map of each area where curbside and alternative collection services for covered products are available.

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.

The substitute adds (4) which allows a county to establish an ordinance that covered products designated for collection by a PRO plan be collected exclusively through alternate collection in areas regulated by the commission under RCW 81.77, if the area was designated rural in the county solid waste plan, and no recycling service was offered within those areas as of the effective date of this section.

In Section 116, 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.

The substitute adds the following qualifying language:

To be eligible for reimbursement from a PRO, the company granted the certificate must provide service that:

- (1) Is offered to residents in single family and multifamily residences wherever curbside garbage collection is offered;
- (2) Includes collection of all covered products designated for curbside collection;
- (3) Aligns with service standards for curbside collection established by the PRO plan;
- (4) Is provided in a manner consistent with the requirements of this chapter.

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.

The substitute removed language in Section 408 which amended 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.

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

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 404 and 406 require a simple rulemaking to update WAC 480-07 and 480-70 to review and align current commission rules with the language of this bill.

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.

One-time Expenditure \$19,316 split across FY24 and FY25

FY24: \$9,658

FY25: \$9,658

(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)

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	17,097	11,398
Total \$			59,348	70,359	129,707	17,097	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	0.1	0.0
A-Salaries and Wages	38,984	47,862	86,846	11,631	7,754
B-Employee Benefits	13,645	16,753	30,398	4,071	2,714
C-Professional Service Contracts					
E-Goods and Other Services	6,719	5,744	12,463	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-					
Total \$	59,348	70,359	129,707	17,097	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
Regulatory Analyst 2	82,896	0.0		0.0		
Regulatory Analyst 3	93,840	0.1	0.2	0.1	0.0	0.0
Total FTEs		0.4	0.5	0.4	0.1	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.

Sections 404, 405, 406, and generally: Appropriate terms and definitions would need to be included in WAC 480-70 and 480-07.

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.

A review of WAC 480-07 and 480-70 would be required to implement the language of this bill.

Individual State Agency Fiscal Note

Bill Number: 5154 S SB	Title: Solid waste management	Agency: 303-Department of Health
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/11/2023
Agency Preparation: Donna Compton	Phone: 360-236-4538	Date: 02/14/2023
Agency Approval: Kristin Bettridge	Phone: 3607911657	Date: 02/14/2023
OFM Review: Breann Boggs	Phone: (360) 485-5716	Date: 02/14/2023

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 version of the bill does not change requirements for the Department of Ecology to consult with the Department of Health (department), therefore there is no change in fiscal impact to the department.

Section 505(2): The Department of Ecology (Ecology) must 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.

None

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.

None

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.

None

Individual State Agency Fiscal Note

Bill Number: 5154 S SB	Title: Solid waste management	Agency: 461-Department of Ecology
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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				602,812	602,812
Responsible Packaging Management Account-Non-Appropriated NEW-6				1,621,375	1,402,181
Total \$	(482,000)	(482,000)	(964,000)	1,260,187	1,040,993

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	6.4	10.5	8.4	3.4	1.1
Account					
Model Toxics Control Operating Account-State 23P-1	1,618,171	2,688,651	4,306,822	279,849	348,501
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	602,812	602,812
Responsible Packaging Management Account-Non-Appropriated NEW-6	0	0	0	1,621,375	1,402,181
Total \$	1,136,171	2,206,651	3,342,822	1,540,036	1,389,494

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/11/2023
Agency Preparation: My-Hanh Mai	Phone: 360-742-6931	Date: 02/13/2023
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 02/13/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 02/14/2023

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.

Compared to SB 5154, SSB 5154 has the following substantive changes:

- Section 103(1)(b) requires only one PRO during program startup through the completion of the first submitted plan (from 2024 to 2032).
- Dates moved forward by six to twelve months in parts 1 and 2 of the bill:
 - PRO registration from January 2024 to July 2024
 - Performance rate study from April 2024 to September 2024
 - Ecology workload analysis from April 2024 to April 2025
 - PRO payment of Ecology costs from June 2024 to June 2025
 - PRO performance rate proposal from July 2024 to January 2025
 - PRO report on PCRC from April 2024 to April 2025
 - PRO program implementation from June 2027 to January 2028
 - PRO annual report from July 2028 to July 2029
- Section 203 changes the date for when the PRO would submit the PCRC report from April 2024 to April 2025.
- Eliminates PCRC requirements for cannabis-based products (formerly in Section 209) and solid waste roll carts (formerly Section 223).
- Section 304 requires DRO annual payments of the Ecology's oversight costs by June 30th of each year, rather than by December 31st.
- Section 305(6) establishes an individual distributor DRO annual payment rate to Ecology for oversight costs of ten cents per beverage container.
- Eliminates DRO requirement to pay for half the performance rate study or the advisory council in Part 1 (formerly in Section 304(5)).
- Section 310 establishes a consumer convenience advisory council in consultation with Ecology.
- Section 311 requires a consumer convenience assessment to be carried out by Ecology in the fifth year of program implementation, in partnership with the DRO to assess consumer convenience provided by the program; and requires Ecology to make policy recommendations.
- Section 312 establishes an independent refund program for distributors operating a reusable beverage program for less than 10,000 beverage containers per year.
- Section 316 establishes the management of the Recycling Revenue Augmentation Fund for the Department of Commerce (Commerce).
- Section 503 directs the Liquor and Cannabis Board to update cannabis packaging rules to reduce plastic packaging in an amount commensurate with a PRO's source reduction rate to allow for and encourage the reuse of cannabis containers in consultation with Ecology.

These changes result in changes to the fiscal impact for Ecology.

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 Paper Products, similar to SB 5697 that was introduced in the 2022 legislative session. This program would be operated by a single producer responsibility organization (PRO) for the first five years of program implementation. Additional PROs could establish programs after the first five years. PRO programs operate 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.
- Add PCRC responsibilities for specific categories of plastic products to PRO duties for their member producers.
- Remove registration, reporting, agency fee payment, and per pound penalty for noncompliance from the requirements of Chapter 70A.245 RCW. Trash bag PCRC would remain under Ecology oversight in Chapter 70A.245 RCW with the addition of other plastic product PCRC requirements. The PCRC product requirements in chapter 70A.245 RCW 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 PAPER PRODUCTS

Section 103 – Producer Responsibility Organization (PRO) Duties

Beginning July 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 PRO would be required to register with Ecology and submit specific information as prescribed in the bill by July 15, 2024, and annually thereafter (until submittal of annual reports). A single PRO would be authorized to operate the EPR program until the completion of the first program plan.

By June 30, 2025, and annually thereafter, the PRO would submit an annual payment to cover Ecology costs to implement, administer, and enforce this chapter.

The PRO would submit a program plan to Ecology within six months of rule adoption. The PRO registered with Ecology as of January 15, 2026, would implement the approved plan by January 1, 2028, or within six months of plan approval, whichever is later, and submit an annual report for the prior calendar year by July 1, 2029, and annually thereafter.

PRO 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, 2025, 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 PRO in 2026, Ecology would be required to issue a general order and send notice to the PRO 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. Ecology would be required to review and approve PRO proposed performance rates within 90 days of receipt (submitted by January 1, 2025, per Section 111). 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 PRO 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 by September 1, 2024 and a statewide needs assessment by July 1, 2025. These studies would be conducted by a third-party consultant selected by Ecology and funded by the PRO.

The PRO and Advisory Council (created in section 120) 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), PRO, 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, the plastic packaging study conducted by Ecology’s consultant and published in October 2020, as well as the approved PRO performance 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 PRO 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, PRO, 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, UTC, and other stakeholders. 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 PRO; and anything added in rule.

Section 108 – Plan Approval, Updates, and Revisions

PRO plans would be required to cover five years of implementation. 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 recycling technology for conversion of plastic, 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 third 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 January 1, 2025, 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.

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 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 city, or town would be allowed to choose to not exercise its contracting authority, and services would be provided under UTC authority. Counties would be allowed to opt out of the EPR program by adopting an ordinance. The PRO 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. Counties would be allowed, by adopting an ordinance, to opt out of the EPR program.

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 – 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 118 – 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 119 – 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; 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 120 – 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 121 – Confidential Business Information

PRO, MRF or other processing facility submitting information would be able to request Ecology hold the data confidential.

Section 122 – Prohibition on the uses of funds by PROs

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 123 – 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. Ecology would be required to provide written notification of noncompliance prior to assessing a penalty. Ecology would offer producers 60 days to come into compliance. This section would authorize Ecology to issue orders, revoke the PRO plan, require plan revision, and require more reporting.

Section 124 – Truth in Labeling

Beginning January 1, 2027, the distribution, sale, or offering to sell any covered product, certified PCRC product, or qualifying beverage container 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 or qualifying beverage container included for recycling in approved PRO or DRO plans, with certain exceptions. Beginning August 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 125 – 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 127 – 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 128 – Petition for Exclusion of Certain Products

Ecology would be authorized to consider excluding certain categories of products, subcategory of products, or individual products initiated by Ecology or upon a petition by a producer or PRO. The petition process would apply to certain medical products or other products subject to federal requirements. This process would be 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 beginning January 1, 2025. This section would provide the dates for which the PCRC products would be required to meet the minimum postconsumer recycled requirements.

Sections 204 - 208

These sections would provide the annual minimum PCRC percentages and their effective dates for the PCRC 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)..

Section 209 - PCRC Reporting by PRO

A PRO would be required to pay an annual fee to Ecology as specified in Part 1. Beginning April 1, 2025, a PRO would submit an annual PCRC report to Ecology. Producers would be required to maintain a certificate of compliance for their PCRC products. Ecology must coordinate providing copies of certificates of compliance at the requests of members of the public. 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, request producer certificates of compliance, provide reasons for not approving the report so the PRO could submit a revised report, and post the approved reports on its website.

Section 210 – 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 PCRC 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. The PRO would be required to submit producer registration data and reports to Ecology for temporarily excluded products.

Section 211 – 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. Penalty reduction requests would be submitted to Ecology by August. 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 212 - Rule-making Authority

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

Section 214 - 70A.245.020 Postconsumer Recycled Content

This section would require plastic household cleaning and personal care products that are pesticides regulated under FIFRA, trash bags, plant pots and trays to meet PCRC rates. Ecology and the certified PCRC manufacturing industry may petition for PCRC rate adjustments.

Section 215 -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. Ecology would be required to coordinate request for copies of the certificates of compliance from the public within 90 days.

Section 216 - 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 217 - 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 218 – 70A.245.100 Account

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

Section 219 - 70A.245.120 Market Study

This section would add PCRC products subject to this chapter and products subject to PCRC requirements in Part 1 of the bill to the Plastic resin market study. The plastic resin study must be completed by May 1, 2029, and may be conducted under the needs assessment in section 105.

Section 220 – 70A.245.060 Trash Bag Labeling Requirements

This section would require trash bag labels to indicate the percent of PCRC in the trash bag beginning January 1, 2025.

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

Section 304 – Distributor Responsibility Organization Duties

By July 1, 2024, or four months after DRO registers with Ecology (whichever is later), distributors of qualifying beverages would be required to join a Distributor Responsibility Organization (DRO), or independently fulfill the duties of a DRO.

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 June 30 of the fiscal year of the initial registration, and annually thereafter. The annual payment would fund Ecology’s work to administer this chapter.

The DRO would submit a plan to Ecology by July 1, 2026, or six months after rule adoption, whichever is later. The DRO would implement the deposit return system by July 1, 2027, or one year after rule adoption, whichever is later. The DRO would be able to collect refund values up to 60 days prior to program startup.

Section 305 – 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 April 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 for the next fiscal year 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. Within six months of the date Ecology receives the annual report, Ecology would be authorized to require the DRO to conduct an independent audit to determine refund rate accuracy.

Distributors independently carrying out the duties of a DRO would be required to pay a fee to Ecology equal to 10 cents for each qualifying beverage container until the independent distributor begins operating a deposit return system.

After July 1, 2027, Ecology would be authorized to impose a civil penalty on any distributor who fails to participate in a DRO.

Section 306 – 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 307 – Operation of Deposit Return System

Ecology would review and approve the DRO plan that meets the requirements of Sections 304 and 305, includes a 10-cent refund value on qualifying beverage containers of 4 ounces up to 1 gallon, and includes a method for paying the redemption value. The DRO would be required to provide at least 270 geographically convenient bulk drop-off sites at no cost to customers. The DRO would provide ten more drop off sites within two years of implementation. 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 remit \$15 million per year for the first five years of implementation, to Commerce’s Recycling Revenue Augmentation Fund. Commerce would manage and distribute these funds.

Section 309 – Annual Report

The DRO would be required to submit an annual report to Ecology beginning July 1, 2028, and annually thereafter.

Section 310 – Consumer Convenience Advisory Council

Six months after DRO registration, in coordination with Ecology, the DRO would establish a council to advise on bag drop locations. The council would meet twice yearly.

Section 311 – Consumer Convenience Assessment

In the fifth year of DRS program implementation, Ecology, in consultation with the DRO, and the Consumer Convenience Advisory Council, would conduct an assessment of consumer convenience. Ecology would make recommendations to increase consumer convenience and enhance performance.

Section 312 – Independent Refund Program

Manufacturers who distribute their own beverages would be able to submit plans to operate an independent deposit return refund program if they sell less than 10,000 qualifying beverage containers per year in reusable containers and apply a refund value of more than 10 cents to their beverage containers.

Section 313 - 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 315 – Civil Penalties

Ecology would be authorized to impose a civil penalty up to \$200 to \$500 per violation per day . This section would authorize Ecology to issue orders, revoke PRO plan, require plan revision, and require more reporting.

Section 318 - DROP Account

This section would create a Deposit Return Organization Program Account. All receipts received by Ecology under this chapter must be deposited in the account. The account is to be used by Ecology for implementing, administering, and enforcing this chapter.

Section 319 - Contingency Plan

If a DRO ceases to exist and operate, qualifying beverage containers become covered products under Part 1.

PART FOUR: Amendments to Solid Waste Management Laws

Sections 409 to 415 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.

PART FIVE: Miscellaneous provisions

Section 503 – New Section in Chapter 69.50 RCW – Liquor Control Board

By July 2026, the LCB would be required to consult with Ecology on rule updates for cannabis packaging, including source reduction, reuse, or postconsumer recycled content.

Section 505 – 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 506 – 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.

Section 507 would repeal the Recycled Content Account, effective July 1, 2029.

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, 214, and 305. Ecology assumes no penalty collections for the penalty authority established in sections 123, 211, 216, 305, and 315. Penalty revenue is unknown and therefore not estimated in this fiscal note.

Fees (Sections 104, 214, and 305)

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 120), by April 1, 2025, and annually thereafter.

Section 103 (4) would require PRO to submit an annual fee payment by June 30, 2025, and annually thereafter, to cover Ecology's costs for the preceding year, as determined in section 104. For purposes of the fiscal note and consistency with section 104, we assume the first payment on June 30, 2025, would be for estimated costs for FY 2026.

Section 127 would create the RPMA, to which all receipts would be deposited.

Ecology assumes the first fee receipt collections would be for FY 2026 (billed in FY 2025). One PRO 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.

Estimated RPMA Revenue

FY 2026: \$1,024,076

FY 2027: \$597,299

FY 2028: \$651,174

FY 2029: \$751,007

Recycled Content Account (RCA)

Sections 214, 215, 216, and 217 would repeal significant portions of the current post-consumer recycled content (PCRC) requirements in Chapter 70A.245 RCW, including Ecology's authority to issue an annual fee to producers to cover Ecology's estimated operating costs. Section 507 would repeal the provisions establishing the RCA, effective July 1, 2029.

Ecology assumes all workload and associated costs for administering Chapter 70A.245 RCW under current law, and revenue for the corresponding annual fee, would be eliminated.

Estimated RCA Revenue

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

Deposit Return Organization Program Account (DROP Account)

Section 304 (5) would require DRO to submit an annual fee payment by June 30th of the year of initial registration, annually thereafter, to cover Ecology's costs in section 305. Fees would be deposited in the DROP Account created in section 318.

Section 305 (2) would require Ecology to determine an annual fee (for the following fiscal year) to be paid by each DRO to

adequately cover Ecology's implementation, administration, and enforcement costs for the chapter created in section 603, by April 1st of the year a DRO has notified Ecology of intent to implement a deposit return system under section 302, and annually thereafter.

Section 305 (6) would allow a distributor independently fulfilling the duties and requirements of a DRO to pay a fee in lieu of the fee payment described in section 304 (5). The alternate fee would be ten cents per qualifying beverage container. For purposes of the fiscal note, Ecology assumes all distributors would choose to sign up with a DRO and not operate independently as a DRO. Based on this assumption, Ecology assumes no cash receipts from the alternate fee in section 305 (6).

Ecology assumes one DRO would submit an intent to operate a deposit return system on July 1, 2024. The first fee receipt collections would be due June 30, 2025 (for FY 2026). 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 DRO based on each DRO's proportionate share of covered materials managed by weight.

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

Estimated DROP Account Revenue
FY 2026 through FY 2029: \$301,406

Recycling Revenue Augmentation (RRA) Fund (Section 305 (7) and Section 317)

Section 305 (7) would require Ecology to transfer excess funds from fees paid under Section 305 (6) in the DROPA to the RRA Fund described in section 317. For purposes of this fiscal note, Ecology assumes no excess funds are estimated for transfer to the RRA Fund.

Penalties (Sections 123, 211, 216, 305, and 315)

Section 123 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 211 would subject a PRO out of compliance with the requirements of the chapter created in section 602 to the penalty provisions of section 123.

Section 216 would provide authority for Ecology to assess civil penalties of varying specified levels based on the number of violations of the provisions of RCW 70A.245.020, 70A.245.030, or 70A.245.060. Any penalty collections would be deposited into the Recycling Enhancement Account (REA).

Section 305 would require Ecology to impose civil penalties to distributors who fail to comply with the requirements of the chapter and do not comply following formal notice, of at least 15 cents per qualifying beverage container, or \$10,000, whichever is greater. Any penalty collections would be deposited in the DROPA.

Section 315 would provide authority for Ecology to assess penalties of up to \$200 per violation per day and no more than \$500 per violation per day to a distributor responsibility organization that fails to comply with requirements after formal notification.

Ecology would work with the PRO, DRO, producers, and distributors, 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 102-110, 120-121, 123-125, 127-128, 203, 209-222, 304-305, 307, 309-313, 315, 503, 505, and 506.

Ecology assumes the costs associated with rulemaking and other fee-funded activities would be funded one-time with MTCA – Operating in FY 2024 and FY 2025 for the fee-eligible portions of parts 1 and 2 of the bill, and in FY 2024 and FY 2025 for the fee-eligible portions of part 3. Ecology’s costs to implement the provisions of sections 312, 505, and the PCRC certification requirements in sections 214-220 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.

Estimates of agency costs are based on Ecology’s experience implementing extended producer responsibility (EPR) programs for electronics, mercury lights, photovoltaic modules, and paint and implementing the PCRC requirements for plastic containers (chapter 70A.245 RCW).

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. There are three producer responsibility organizations (PROs) operating in British Columbia covering residential curbside packaging and printed paper, beverage containers, and news media. There are 1,800 companies participating in the three PRO programs operating in BC for packaging and printed paper. Ecology assumes one PRO, but a similar number of producers, and brands would be anticipated in Washington for the program that would be established for PART 1 of this bill.

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

Administration/Oversight (Sections 103, 104, 110, 121, 123, 124, 125, 127, 128, 203, 209, 210, 211, 212):

The bill would require a single producer responsibility organization (PRO) to be established and register with Ecology for program startup through the completion of the first 5-year program plan. The bill (Section 103) would require Ecology to accept only one registration of a single PRO. Based on early experiences in Colorado, Ecology assumes two PRO would register and Ecology would need to select which PRO to accept.

Ecology assumes 2,000 producers would be required to join the 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 PRO and producers would be needed. Technical assistance would include providing regulatory interpretations for producers and PRO regarding the requirements of this bill and notifying producers who have not registered with the 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 PRO-operated program and 2,000 producers would be required to comply.

Beginning in FY 2024, Ecology would provide outreach and technical assistance to producers and the PRO regarding the requirements of this bill including registration (required starting July 2024), determining agency annual workload cost (required by April 2025) for oversight of Part 1 and Part 2 of this bill, establishing a general order (until rule adoption) and invoicing PRO fee payments (due to Ecology June 2025) for costs to oversee Part 1 and Part 2 of this bill, reviewing the

PRO proposed performance rates (due by January 2025), 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 PRO on significant program efforts, the performance rate study, and the needs assessment.

Ecology would participate in PRO stakeholder consultation efforts providing technical assistance, attending public events and discussions, and reviewing education and outreach materials. Ecology would consider exclusion of certain products including petitions from the PRO or producers, review and approve the PRO submitted plan (due to Ecology by July 2026). In 2026, Ecology would conduct education and outreach to producers in Parts 1, 2, and 3 regarding the truth in labeling requirements for packaging recyclability.

Following PRO plan approval, program implementation oversight work would include ensuring producers and PRO 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 2029 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 the PRO and producers with technical assistance, and conducting enforcement for the PRO or producers not meeting the program requirements. Enforcement would include warning letters to non-compliant producers or the PRO, listing non-compliant producers on a website. Ecology would work with the producers and the PRO to come into compliance.

Ecology estimates 0.75 full time equivalent (FTE) Environmental Planner 4 (EP-4) would be required in FY 2024 and ongoing. Program duties include: provide technical assistance to producers and the PRO regarding the requirements of this bill, including notifying producers who have not registered with the PRO of their noncompliance status and conducting enforcement actions when necessary to ensure producer compliance; education and outreach to producers in Parts 1, 2, and 3 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 September 1, 2024.

Ecology estimates 0.10 FTE Budget Analyst 4 (BA-4) would be required in FY 2025 and 0.05 FTE in FY 2026 and ongoing to develop and update the annual workload model and make necessary adjustments to the annual fee payment consistent with section 104(2)(b).

Ecology estimates 0.75 FTE Environmental Specialist 3 (ES-3) would be required each year in FY 2024 and FY 2025, and 0.50 FTE in FY 2026 and ongoing to: register the PRO July 15, 2024 (and every July after); collect and manage submitted information; inform the PRO of their fee payments by April 1, 2025 (and every April after); invoice the PRO and collect PRO payments due June 30, 2025 (and every June after); consider requests from the PRO 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 PRO, 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 PRO and impacts on local planning, support the PRO, conduct stakeholder consultations, and to answer questions from residents, businesses, and local agency staff and elected officials regarding the program. Ecology assumes the PRO 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, 106, 107, 108, 109)

The bill would require one PRO to submit a program plan 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 the PRO submitted plan. Based on Ecology experience, technical assistance would be provided to the PRO prior to plan submittal and for any needed plan amendments.

The bill would require Ecology to approve the plan within 120 days. Based on EPR plan review experience, Ecology assumes one PRO plan amendment would be required. Ecology assumes the PRO plan would be approved by December 2026, and the PRO would implement the plan by July 2027 (FY 2028). Plan review and approval work would occur again in FY 2032 for the first plan update due within five years and be repeated every five years thereafter. After this time, more than one PRO would be able to submit plans.

Ecology estimates 0.4 FTE EP-4 would be required in FY 2027 to review one PRO plan, work with the advisory council, work with the PRO on at least one plan revision, incorporate public comments, and approve the plan.

Ecology estimates 0.4 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 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 the submitted PRO plan, review of any advanced technology, responsible management practices, eco-modulation fees, collection service, and other technical issues.

Ecology estimates 0.10 FTE COEES-3 in FY 2027, supported by the ES-4, to manage the public comment review of the PRO plan, 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. The 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 September 1, 2024. This study would recommend performance rate targets to be achieved by 2032, the ninth calendar year after bill passage. By January 1, 2025, the PRO 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 performance rate targets.

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 September 2024, and the needs assessment would be completed by July 2025. Ecology would hire and oversee the consultant conducting the performance rate study and needs assessment, including consultation with the UTC, advisory council, and PRO 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, \$125,000 in FY 2024 and \$25,000 in FY 2025, which is shown in Object C. This study would be completed before the PRO would be required to pay Ecology costs. 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 fees become effective.

Ecology estimates \$300,000 would be required 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 120)

Ecology assumes the 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.

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 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 PRO on the implementation of the EPR program, the performance 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 FY 2028 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 and FY 2025, all costs for this section would be funded in MTCA-Op before PRO fees take effect. Because the Advisory Council falls within the requirements to implement this chapter and are thus eligible to be fully funded by PRO fees, FY 2026 costs are assumed to be in the Responsible Product Management Account (RPMA).

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 2025, 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. Estimated workload and costs are 0.04 FTE AAG and 0.02 Legal Assistant (LA) for a total of \$12,800 in FY 2024, 0.17 FTE AAG and 0.08 FTE LA for \$44,000 in 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 203, 209, 210, 211, 212)

Beginning January 1, 2025, and annually thereafter, the PRO established in Part 1 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, and single-use plastic cups.

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. The bill requires producers of PCRC products to report to Ecology under the methods developed for Chapter 70A.245 RCW in 2024. This bill would require producers of PCRC products to maintain a third-party certificate stating compliance with the PCRC requirements within a year of the of the date the requirements take effect. Ecology would be required to handle requests from the public for these certificates; producers would have 60 days to supply the certificates to Ecology and Ecology would have 90 days to supply them to the public.

After January 2025, 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 would be required to make PCRC reports, including requests for exclusions, available on the website for review and public comment for at least 30 days. Ecology would be required to grant temporary exclusions for PCRC products that meet a list of criteria. 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 and 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 2025. 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 2025 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 1 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, handle requests for PCRC certificates of compliance, and determine penalty assessments or reductions.

Elimination of Ecology oversight of PCRC for plastic beverage containers, household cleaning products and personal care product containers (Sections 213-220)

Sections 213 through 217 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 213 through 217, 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 certified PCRC products (Sections 213-222)

Producers of certified postconsumer recycled content products would be required to meet PCRC minimums by specific dates. Certified postconsumer recycled content products would include plastic trash bags, plant pots and trays, and pesticide plastic product containers. 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, and plant pots, plant trays. Ecology would provide ongoing technical assistance, and would assist producers with the certificate of compliance requirements and provide information on its website regarding the recycled content requirements. s. 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 certified postconsumer recycled content products in Sections 213-222.

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 219)

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, and the PCRC products in Part 2 managed by the PRO created in Part 1. 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 rules for measuring performance rates for each material category; 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 many other requirements.

This rulemaking would also include PCRC covered products overseen by the PRO (Part 2 of the bill) 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.

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 criteria for measuring material performance rates; 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 3 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 304, 305, 307, 309, 310, 311, 313, 315)

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 Ecology assumes one DRO would be established and registered with Ecology by July 2024 and all beverage distributors would join this DRO. 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.

DRS Department Duties (Section 305)

Ecology would be required to implement, administer, and enforce this chapter.

The DRO would notify Ecology of its intent to operate a DRS program and register by July 2024. Ecology assumes distributors would be required to join the DRO to sell or distribute qualified beverage containers in the state by October 2024. 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 305(1)). Ecology assumes rulemaking would require 18 months, starting in October 2023, and complete in April 2025.

Ecology would prepare a workload analysis to determine the annual fee payment for the next fiscal year by April 1, 2025, and annually thereafter. In June 2025, the DRO would be required to pay Ecology's annual costs to implement and administer the chapter. Ecology would work with the DRO to establish a Consumer Convenience Advisory Council in January 2025; and hire a third-party consultant to conduct a consumer convenience assessment in 2032 (five years after program implementation).

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

Ecology estimates 0.75 FTE EP-4 would be required in FY 2024 and 1.25 FTE in FY 2025 and ongoing. Program duties

include providing technical assistance to distributors and DRO 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; and providing technical assistance to local jurisdictions regarding the DRO and impacts on local planning and recycling services, and answering questions from residents, businesses, and local agency staff and elected officials regarding the program; reviewing and approving the DRO plan, and plan updates they provide, and annual reports; work with the DRO to establish and meet with the Consumer Convenience Advisory Council and conduct a consumer convenience assessment in 2032. Ecology assumes the DRO would cover the costs associated with the Consumer Convenience Advisory Council.

Ecology estimates 0.50 FTE Environmental Specialist 3 (ES-3) would be required in FY 2024 and ongoing to: provide assistance to residents and local governments; register DRO; collect and manage submitted information; inform DRO of their fee payments by April 1, 2025, and annually thereafter; invoice DRO and collect DRO payments due June 2025, and annually thereafter; consider requests from DRO or distributors to hold data confidential; review of annual reports starting in July 2028, 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 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 DRO, member distributors, and qualified beverage containers.

Section 311 would require Ecology, in consultation with the DRO and the Consumer Convenience Advisory Council, to conduct an assessment of consumer convenience and make recommendations to increase consumer convenience and enhance performance, in the fifth year of DRS program implementation. Ecology assumes an independent third-party consultant would perform the assessment and provide preliminary recommendations, and that the DRO would fund the assessment.

Ecology estimates \$150,000 would be required for the consumer convenience assessment in FY 2032.

Section 312 – Independent Refund Program

Ecology assumes independent refund programs would be established by beverage manufacturers distributing less than 10,000 beverages in reusable containers. Based on Oregon's program, Ecology assumes up to ten manufacturers would establish independent refund programs, examples would be small operations like a dairy, brewery, winery, or other niche operation. These manufacturers would be required to submit a plan and annual report to Ecology. Ecology assumes these manufacturers would be identified during the first year after bill passage, as beverage distributors would be required to join the DRO. Ecology would work directly with these small manufacturers providing technical assistance to get the required registration information submitted. Due to the size of these independent programs, Ecology assumes their plans and annual reports would be streamlined to ensure quick and efficient compliance. Independent refund program operations would be assumed to come into compliance by the time distributors would be required to join the DRO or would independently fulfill the duties required of a DRO, October 2024, and require minimal ongoing technical assistance.

Ecology estimates 0.10 FTE EP-4 would be required in FY 2024 and 0.05 FTE in FY 2025 and ongoing to provide technical assistance to the small beverage manufacturers operating an independent refund program. That work would include providing regulatory interpretations regarding the requirements of this bill, assisting with plan and reporting requirements.

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. Estimated workload and costs are 0.06 FTE AAG and 0.03 FTE Legal Assistant (LA) for a total of \$19,200 in FY 2024, 0.11 FTE AAG and 0.06 FTE Legal Assistant (LA) for a total of \$26,600 in 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.

Rulemaking – Part 3 (Section 305)

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. 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; 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.

PART FIVE – MISCELLANEOUS PROVISIONS

Liquor Control Board (Section 503)

Section 503 would require the Liquor Control Board (LCB) to consult with Ecology on reusable, recyclable, source reduction, and postconsumer recycled content requirements for cannabis packaging rule update. The LCB would be required to adopt an updated rule by July 2026.

Ecology estimates 0.10 FTE EP-4 would be required in FY 2024 and FY 2025 to provide technical assistance to the LCB regarding source reduction and reusable or recyclable packaging during rulemaking.

Feasibility Study (Section 505)

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 0.25 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 506)

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 0.25 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 this 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.

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: \$1,128,425 and 7.1 FTEs
FY 2025: \$1,692,704 and 9.1 FTEs
FY 2026: \$1,065,118 and 6.9 FTEs
FY 2027: \$621,925 and 3.9 FTEs
FY 2028: \$717,591 and 2.8 FTEs
FY 2029: \$575,800 and 2.8 FTEs

Repeal of current PCRC requirements (Sections 215-219)

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

Parts 3 and 5 of the bill are estimated to require:

FY 2024: \$489,746 and 3.6 FTEs
FY 2025: \$995,948 and 5.8 FTEs
FY 2026: \$507,379 and 2.7 FTEs
FY 2027: \$309,614 and 2.2 FTEs
FY 2028: \$550,656 and 2.5 FTEs
FY 2029: \$509,447 and 2.9 FTEs

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

FY 2024: \$1,136,171 and 6.4 FTEs
FY 2025: \$2,206,651 and 10.5 FTEs
FY 2026: \$1,090,497 and 5.2 FTEs
FY 2027: \$449,539 and 1.6 FTEs
FY 2028: \$786,247 and 0.8 FTEs
FY 2029: \$603,247 and 1.3 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, 219, 505 and 506, estimated to be \$125,000 in FY 2024, 525,000 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 \$30,000 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 \$28,000 in FY 2028, \$71,000 in FY 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 in FY 2024 and ongoing 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	1,618,171	2,688,651	4,306,822	279,849	348,501
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	602,812	602,812
NEW-6	Responsible Packaging Management Account	Non-Appropriated	0	0	0	1,621,375	1,402,181
Total \$			1,136,171	2,206,651	3,342,822	1,540,036	1,389,494

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	6.4	10.5	8.4	3.4	1.1
A-Salaries and Wages	530,814	831,692	1,362,506	638,946	305,278
B-Employee Benefits	191,092	299,410	490,502	230,019	109,898
C-Professional Service Contracts	159,200	595,500	754,700	236,300	710,000
E-Goods and Other Services	29,645	124,243	153,888	157,333	133,122
G-Travel	12,160	21,224	33,384	21,501	9,907
J-Capital Outlays	5,711	9,387	15,098	6,110	1,928
9-Agency Administrative Overhead	207,549	325,195	532,744	249,827	119,361
Total \$	1,136,171	2,206,651	3,342,822	1,540,036	1,389,494

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	0.1	0.2	0.1	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	4.5	5.9	5.2	3.7	3.3
ENVIRONMENTAL PLANNER 5	98,592	1.0	1.5	1.3	0.5	0.1
ENVIRONMENTAL SPEC 3	63,216	(2.6)	(2.6)	(2.6)	(2.8)	(2.8)
ENVIRONMENTAL SPEC 4	73,260	0.8	1.8	1.3	0.7	0.1
FISCAL ANALYST 2		0.6	0.9	0.7	0.3	0.1
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	
Total FTEs		6.4	10.5	8.5	3.4	1.1

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

Section 212 would 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.

Section 305 (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.

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

By Section

OPERATING BUDGET	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Part 1 and 2	1,128,425	1,692,703	1,065,118	621,925	717,591	575,800
Total FTEs	7.1	9.1	6.9	3.9	2.8	2.8
Staff costs	958,725	1,217,003	920,718	503,575	365,991	374,200
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			
Repeal of current PCRC requirements (Sections 213-217)	(482,000)	(482,000)	(482,000)	(482,000)	(482,000)	(482,000)
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)
Part 3 and 5	489,746	995,948	507,379	309,614	550,656	509,447
Total FTEs	3.6	5.8	2.7	2.2	2.5	2.9
Staff costs	466,746	763,148	359,479	286,714	327,756	386,547
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				
ECOLOGY TOTAL OPERATING FTEs	6.4	10.5	5.2	1.6	0.8	1.3
ECOLOGY TOTAL OPERATING EXPENDITURES	1,136,171	2,206,651	1,090,497	449,539	786,247	603,247

Individual State Agency Fiscal Note

Bill Number: 5154 S SB	Title: Solid waste management	Agency: 468-Environmental and Land Use Hearings Office
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.6	0.3	1.3	1.3
Account					
General Fund-State 001-1	0	80,395	80,395	294,432	294,432
Total \$	0	80,395	80,395	294,432	294,432

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 02/11/2023
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 02/13/2023
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 02/13/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 02/14/2023

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.

No changes to impacts from earlier version of this bill.

SSB 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 124). Violations are subject to penalty of up to \$1,000 per day per violation (section 123).
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, 211). Department of Ecology will administer and enforce PCRC requirements (section 212).
3. Establishing a beverage container deposit return system, including a system that pays consumers a refund when they return a specific beverage container (sections 304-319). Distributors of beverage containers must join a distributor responsibility organization or fulfill the requirements of such organization (section 305). 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 315).

SSB 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.

SSB 5154 amends Pollution Control Hearings Board (PCHB) statutes to add that the PCHB can decide appeals of civil penalties and orders imposed under the bill (section 501), and that civil penalties imposed under the bill must be imposed in writing and describe violation with reasonable particularity (section 502).

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

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 7 average complexity appeals per year resulting from this bill.

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 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.

230 hours/appeal x 7 appeals = 1,610 AAJ hours per FY, ongoing.

Assume New AAJ FTE: The PCHB will need approximately 0.75 FTE for an AAJ with knowledge of environmental law to assist with these new cases, based on the estimated number of AAJ hours per year. 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.

An AAJ makes \$100,000 per year, plus related benefits estimated at \$32,021 per year, 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, per FY, ongoing. Related benefits would total \$24,015 per FY, ongoing.

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

An LA3 makes \$55,872 (assumed Step L) per year, with related benefits estimated at \$24,059 per year at current benefits rates. The agency needs a 0.5 LA3 FTE, so the salary would be \$55,872 x 0.5 FTE = \$27,936 per FY, ongoing. Related benefits would total \$12,030 per FY, ongoing.

Goods and services for the total 1.25 FTE 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 FY 25.

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 workstations at the ELUHO office. We assume the 0.75 AAJ FTE would be offered the option of working remotely and the 0.5 LA3 FTE would be in the office but would not require an office with a door.

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	80,395	80,395	294,432	294,432
Total \$			0	80,395	80,395	294,432	294,432

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		51,968	51,968	205,872	205,872
B-Employee Benefits		18,182	18,182	72,090	72,090
C-Professional Service Contracts					
E-Goods and Other Services		3,808	3,808	12,976	12,976
G-Travel		880	880	3,494	3,494
J-Capital Outlays		5,557	5,557		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	80,395	80,395	294,432	294,432

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
Total FTEs			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 S 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, operational and administrative cost impacts
- Counties:** Revenue increase from reimbursement on eligible activities, revenue decrease from sale of residential recyclables, operational and administrative cost impacts, 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, which jurisdictions would participate on the advisory council

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: 02/14/2023
Leg. Committee Contact:	Phone:	Date: 02/11/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 02/14/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 02/14/2023

Part IV: Analysis

A. SUMMARY OF BILL

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

This fiscal note reflects language in SSB 5154, 2023 Legislative Session.

CHANGES BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

This substitute bill makes numerous changes to the requirements of the Producer Responsibility Organization or Distributor Responsibility Organization, the Department of Ecology's role, and the covered products. It also specifies that local government representation on the advisory council must include two representatives of counties and two of cities, of which one each must be representatives of rural communities and one of urban communities.

SUMMARY OF CURRENT BILL:

This bill would establish a program for the management of consumer packaging and paper products to be funded and implemented by producers or distributors 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.

CHANGES IN EXPENDITURE IMPACTS BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

This substitute bill specifies that local government representation on the advisory council must include two representatives of counties and two of cities, of which one each must be representatives of rural communities and one of urban communities. There would be staff time and travel related costs for those participating.

EXPENDITURE IMPACTS OF CURRENT BILL:

This substitute 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.

The bill also specifies that local government representation on the advisory council must include two representatives of counties and two of cities, of which one each must be representatives of rural communities and one of urban communities. It is unknown which local governments would be chosen to participate on the advisory council or the level of participation required. There would be staff time and travel related costs for those participating.

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.

CHANGES IN REVENUE IMPACTS BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

None

REVENUE IMPACTS OF CURRENT BILL:

This substitute 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:

Senate Bill Report, SB 5154, Environment, Energy, and Technology Committee (2/3/2023)

Local Government Fiscal Note SSB 5697 (2022)

Washington State Association of Counties