

# Multiple Agency Fiscal Note Summary

|                                 |                               |
|---------------------------------|-------------------------------|
| <b>Bill Number:</b> 1173 E S HB | <b>Title:</b> Light pollution |
|---------------------------------|-------------------------------|

## Estimated Cash Receipts

NONE

## 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         |
| Department of Transportation               | .0   | 0             | 0             | 0              | .0         | 0             | 0             | 0             | .0         | 0             | 0             | 0             |
| Department of Ecology                      | .1   | 34,084        | 34,084        | 34,084         | .0         | 0             | 0             | 0             | .0         | 0             | 0             | 0             |
| Department of Ecology                      | In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note. |               |               |                |            |               |               |               |            |               |               |               |
| Energy Facility Site Evaluation Council    | .3   | 0             | 0             | 76,416         | .0         | 0             | 0             | 0             | .0         | 0             | 0             | 0             |
| Environmental and Land Use Hearings Office | .1   | 40,848        | 40,848        | 40,848         | .3         | 70,342        | 70,342        | 70,342        | .3         | 70,342        | 70,342        | 70,342        |
| <b>Total \$</b>                            | <b>0.5</b>   | <b>74,932</b> | <b>74,932</b> | <b>151,348</b> | <b>0.3</b> | <b>70,342</b> | <b>70,342</b> | <b>70,342</b> | <b>0.3</b> | <b>70,342</b> | <b>70,342</b> | <b>70,342</b> |

| Agency Name         | 2023-25  |          |       | 2025-27 |          |       | 2027-29 |          |       |
|---------------------|--|----------|-------|---------|----------|-------|---------|----------|-------|
|                     | FTEs   | GF-State | Total | FTEs    | GF-State | Total | FTEs    | GF-State | Total |
| Local Gov. Courts   |  |          |       |         |          |       |         |          |       |
| Loc School dist-SPI |  |          |       |         |          |       |         |          |       |
| Local Gov. Other    | Non-zero but indeterminate cost and/or savings. Please see discussion. |          |       |         |          |       |         |          |       |
| Local Gov. Total    |  |          |       |         |          |       |         |          |       |

## Estimated Capital Budget Expenditures

| Agency Name                                | 2023-25    |          |          | 2025-27    |          |          | 2027-29    |          |          |
|--|------------|----------|----------|------------|----------|----------|------------|----------|----------|
|  | FTEs       | Bonds    | Total    | FTEs       | Bonds    | Total    | FTEs       | Bonds    | Total    |
| Department of Transportation               | .0         | 0        | 0        | .0         | 0        | 0        | .0         | 0        | 0        |
| Department of Ecology                      | .0         | 0        | 0        | .0         | 0        | 0        | .0         | 0        | 0        |
| Energy Facility Site Evaluation Council    | .0         | 0        | 0        | .0         | 0        | 0        | .0         | 0        | 0        |
| Environmental and Land Use Hearings Office | .0         | 0        | 0        | .0         | 0        | 0        | .0         | 0        | 0        |
| <b>Total \$</b>                            | <b>0.0</b> | <b>0</b> | <b>0</b> | <b>0.0</b> | <b>0</b> | <b>0</b> | <b>0.0</b> | <b>0</b> | <b>0</b> |

| Agency Name         | 2023-25  |          |       | 2025-27 |          |       | 2027-29 |          |       |
|---------------------|--|----------|-------|---------|----------|-------|---------|----------|-------|
|                     | FTEs   | GF-State | Total | FTEs    | GF-State | Total | FTEs    | GF-State | Total |
| Local Gov. Courts   |  |          |       |         |          |       |         |          |       |
| Loc School dist-SPI |  |          |       |         |          |       |         |          |       |
| Local Gov. Other    | Non-zero but indeterminate cost and/or savings. Please see discussion. |          |       |         |          |       |         |          |       |
| Local Gov. Total    |  |          |       |         |          |       |         |          |       |

## Estimated Capital Budget Breakout

|   |                                 |   |
|---|---------------------------------|---|
| <b>Prepared by:</b> Lisa Borkowski, OFM | <b>Phone:</b><br>(360) 742-2239 | <b>Date Published:</b><br>Final 3/ 8/2023 |
|---|---------------------------------|---|

# Individual State Agency Fiscal Note

|                                 |                               |   |
|---------------------------------|-------------------------------|---|
| <b>Bill Number:</b> 1173 E S HB | <b>Title:</b> Light pollution | <b>Agency:</b> 405-Department of Transportation |
|---------------------------------|-------------------------------|---|

## 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: Angela Kleis | Phone: 360-786-7469   | Date: 03/02/2023 |
| Agency Preparation: Terri Palumbo | Phone: 360-709-8096   | Date: 03/06/2023 |
| Agency Approval: Eric Johnson     | Phone: 360-848-7115   | Date: 03/06/2023 |
| OFM Review: Maria Thomas          | Phone: (360) 229-4717 | Date: 03/06/2023 |

## 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.*

See attached fiscal note.

### 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.*

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

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

NONE

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

NONE

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

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

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

NONE

### IV. C - Capital Budget Breakout

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

NONE

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

NONE

**Part V: New Rule Making Required**

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

# Individual State Agency Fiscal Note

|                              |                               |   |
|------------------------------|-------------------------------|---|
| <b>Bill Number:</b> 1173ESHB | <b>Title:</b> Light pollution | <b>Agency:</b> 405-Department of Transportation |
|------------------------------|-------------------------------|---|

## Part I: Estimates

Check applicable boxes and follow corresponding instructions, use the fiscal template table provided to show fiscal impact by account, object, and program (if necessary), **add rows if needed**. If no fiscal impact, check the box below, skip fiscal template table, and go to Part II to explain briefly, why the program believes there will be no fiscal impact to the department.

No Fiscal Impact (Explain in section II. A)

*If a fiscal note is assigned to our agency, someone believes there might be, and we need to address that, showing why there is no impact to the department.*

Indeterminate Cash Receipts Impact (Explain in section II. B)

Indeterminate Expenditure Impact (Explain in section II. C)

If fiscal impact is less 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 greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, **complete entire fiscal note form Parts I-V**

Capital budget impact, **complete Part IV**

Requires new rule making, **complete Part V**

Revised

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

## Agency Assumptions

N/A

## Agency Contacts:

|                                  |                     |                  |
|----------------------------------|---------------------|------------------|
| Preparer: Terri Palumbo          | Phone: 360-791-3416 | Date: 03/02/2023 |
| Approval: Eric Johnson           | Phone: 360-708-8970 | Date: 03/02/2023 |
| Budget Manager: Stephanie Hardin | Phone: 360-705-7545 | Date: 03/03/2023 |

# Individual State Agency Fiscal Note

## Part II: Narrative Explanation

### II. A - Brief description of what the measure does that has fiscal impact.

*Briefly describe by section number (sections that will change WSDOT costs or revenue), the significant provisions of the bill, and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency.*

Section 1, of ESHB 1173 adds clarifying definitions to apply throughout the chapter unless the context clearly requires otherwise. There were no clarifying definitions in HB 1173.

Section 2, (1) of the ESHB 1173 removes language that required the Department of Ecology to consult with the Washington State Department of Transportation and the Energy Facility Site Evaluation Council and ask for input from counties and cities.

Section 2 (1) directs an owner or operator of a utility-scale wind energy facility to run with an aircraft detection lighting system to mitigate light pollution from the facility.

Section 2 (4) adds that nothing in this section requires that a utility-scale wind energy facility's mitigation of light pollution be conducted in a manner that conflicts with federal requirements, including the Federal Aviation Administration (FAA).

Section 3 in ESHB 1173 adds a civil penalty of up to \$5,000 per day for violation of the requirements of this proposed legislation. There was no civil penalty in HB 1173.

Section 4 in ESHB 1173, changes the compliance date that Aircraft Detection Lighting System (ADLS) mitigation requirements apply beginning January 1, 2027, for existing wind energy facilities that have received site certification through the Energy Facility Site Evaluation Council (EFSEC) or all applicable permits from state agencies and local governments. The compliance date in HB 1173 was January 1, 2026.

Section 8 in ESHB 1173 adds an emergency clause, which was not included in HB 1173, that would take effect immediately after signage. The department assumes the legislation would be signed at the end of the session (April 2023) and would take effect immediately, although added resources to implement the bill would not be needed until July 1, 2023.

There is no fiscal impact to the Washington State Department of Transportation because the changes in the ESHB do not create any added workload or policy implications for Washington State Department of Transportation. Therefore, the department's assessment remains unchanged from the fiscal note submitted on HB 1173.

Note: This fiscal note analysis was based on a comparison of HB 1173 to ESHB 1173. The department was not assigned a fiscal note for substitute house bill (SHB) 1173, however, any changes in the adopted SHB are included in the proposed ESHB.

### 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.*

N/A

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

# Individual State Agency Fiscal Note

There is still no fiscal impact to the department because ESHB 1173 removes the language that required the Department of Ecology to consult with the Washington State Department of Transportation and the Energy Facility Site Evaluation Council and ask for input from counties and cities.

## **Part III: Expenditure Detail**

### **III. A - Expenditures by Object or Purpose**

N/A

## **Part IV: Capital Budget Impact**

N/A

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

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

N/A



# Individual State Agency Fiscal Note

|                                 |                               |  |
|---------------------------------|-------------------------------|--|
| <b>Bill Number:</b> 1173 E S HB | <b>Title:</b> Light pollution | <b>Agency:</b> 461-Department of Ecology |
|---------------------------------|-------------------------------|--|

## 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          | 0.2     | 0.0     | 0.1     | 0.0     | 0.0     |
| <b>Account</b>           |         |         |         |         |         |
| General Fund-State 001-1 | 34,084  | 0       | 34,084  | 0       | 0       |
| <b>Total \$</b>          | 34,084  | 0       | 34,084  | 0       | 0       |

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

### 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: Angela Kleis | Phone: 360-786-7469   | Date: 03/02/2023 |
| Agency Preparation: Jessica Moore | Phone: 360-529-7583   | Date: 03/03/2023 |
| Agency Approval: Erik Fairchild   | Phone: 360-407-7005   | Date: 03/03/2023 |
| OFM Review: Lisa Borkowski        | Phone: (360) 742-2239 | Date: 03/06/2023 |

## 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 HB 1173, the last bill version with an Ecology fiscal note, SHB 1173 replaced all of the previous sections, and ESHB 1173 amended the date in section 2, and added to section 3 that Ecology may adopt by rule a light mitigation standard to maintain consistency between this chapter and the federal aviation administration requirements.

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

Under current law, Ecology does not have any existing light pollution rules or regulate light pollution.

This bill would create a new light pollution program that applies to existing and new utility-scale wind energy facility projects.

Section 1 would create definitions for “aircraft detection lighting system” (ADLS), “hub height”, and “utility-scale wind energy facility.”

Section 2 would require owners and operators of any existing and new wind energy facility that have site certification under chapter 80.50 RCW, Energy Facilities, or that are permitted through other local and state permit processes, would be required to operate with an ADLS, beginning January 1, 2027.

Section 3 would establish a penalty of \$5,000 per day, per violation for facilities out of compliance. Ecology would be permitted to create rules and enforce requirements as outlined in the bill.

Section 4 would amend RCW 43.21B.110, Pollution Control Hearings Board, to expand their jurisdiction to make determinations on appeals for violations of light mitigation requirements.

Section 5 would amend chapter 43.21C RCW, State Environmental Policy Act, to create a new categorical exemption for actions to mitigate light pollution for all existing utility-scale wind energy facilities whether they have Energy Facility Site Evaluation Council certification or are permitted through other local or state permit processes.

Section 6 would add sections 1-3 as a new chapter under Title 70A RCW, the Environmental Health and Safety Law.

Section 7 would add a severability clause, stating that if any provision of the law is held invalid, the rest of the law is not affected.

Section 8 would add an emergency clause, making the act take effect immediately.

### 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.*

No cash receipts are estimated for the penalty provisions under section 3.

Section 3(1) would establish a penalty of \$5,000 per day, per violation for facilities out of compliance. Penalties would be appealable to the Pollution Control Hearings Board.

Enforcement actions and 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 indeterminate and greater than \$50,000 for rulemaking and enforcement under section 3. Expenditures for outreach under section 3 are estimated to be less than \$50,000 in Fiscal Year (FY) 2024.

Section 3 would authorize Ecology to adopt rules for light mitigation standards to reflect updated federal aviation regulations, guidelines, or standards in order to maintain consistency between federal aviation administration requirements and the requirements of this bill. Ecology has no way to predict if or when federal aviation regulations, guidelines, or standards will change. Therefore, rule-making costs are indeterminate.

Ecology would also be authorized to enforce the requirements of this bill. Enforcement is assumed to begin after January 1, 2027, when the requirements of section 2 take effect. Ecology assumes that enforcement would be pursued if information that a facility is not in compliance is received. Ecology has no way of knowing how many of the existing and new wind energy facilities would be required to operate with an ADLS by the deadline, would not meet the extension criteria and need Ecology to take enforcement action. Therefore, the costs for enforcement actions are indeterminate.

Ecology assumes that, as part of the enforcement requirements, the agency would distribute information regarding bill requirements to utility-scale wind energy facility owners and operators to help facility owners and operators in their advance planning to meet the deadlines in the bill. There are 36 known facilities at this time (24 wind turbine farms and another 12 in either permitting or construction). Ecology assumes that there could be additional wind energy facilities added between now and the first deadline of January 1, 2027. Ecology estimates that 0.10 FTE Communication Consultant 5 would be required in FY 2024 to prepare a focus sheet and set up a web page. Ecology estimates that and 0.10 FTE Environmental Planner 5 would be required to distribute information regarding bill requirements to utility-scale wind energy facility owners and develop a method and track progress toward ADLS at utility-scale wind energy facilities. Ecology assumes that staff time would be needed to track the status of each utility-scale wind energy facility in FY 2025 – FY 2027. Ecology estimates that the time needed would be less than 15 minutes per facility over 3 fiscal years. Therefore, Ecology assumes this work could be accomplished by existing staff with no new fiscal impact.

Section 5 would amend SEPA to add a new categorical exemption. Ecology assumes that this change would not require an amendment to Ecology's categorical exemption rules at WAC 197-11-800, as statutory exemptions contained in SEPA are not included in Ecology rules. Therefore, Ecology does not have a fiscal impact as a result of this section of the bill.

### SUMMARY:

Section 3 Outreach  
FY 2024: \$34,084 and 0.23 FTE

Section 3 Rulemaking and Enforcement  
Expenditures are Indeterminate

### Notes on costs by object:

Salary estimates are current biennium actual rates at Step L.  
Benefits are the agency average of 36% of salaries.  
Goods and Services are the agency average of \$5,224 per direct program FTE.  
Travel is the agency average of \$1,563 per direct program FTE.  
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 |
|-----------------|---------------|-------|---------|---------|---------|---------|---------|
| 001-1           | General Fund  | State | 34,084  | 0       | 34,084  | 0       | 0       |
| <b>Total \$</b> |               |       | 34,084  | 0       | 34,084  | 0       | 0       |

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

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

|                                  | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|----------------------------------|---------|---------|---------|---------|---------|
| FTE Staff Years                  | 0.2     |         | 0.1     |         |         |
| A-Salaries and Wages             | 18,573  |         | 18,573  |         |         |
| B-Employee Benefits              | 6,686   |         | 6,686   |         |         |
| E-Goods and Other Services       | 1,044   |         | 1,044   |         |         |
| G-Travel                         | 312     |         | 312     |         |         |
| J-Capital Outlays                | 206     |         | 206     |         |         |
| 9-Agency Administrative Overhead | 7,263   |         | 7,263   |         |         |
| <b>Total \$</b>                  |         | 34,084  | 0       | 34,084  | 0       |

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

**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 |
|-------------------------|--------|---------|---------|---------|---------|---------|
| COMM CONSULTANT 5       | 87,144 | 0.1     |         | 0.1     |         |         |
| ENVIRONMENTAL PLANNER 5 | 98,592 | 0.1     |         | 0.1     |         |         |
| FISCAL ANALYST 2        |        | 0.0     |         | 0.0     |         |         |
| IT APP DEV-JOURNEY      |        | 0.0     |         | 0.0     |         |         |
| <b>Total FTEs</b>       |        | 0.2     |         | 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.*

Section 3 would authorize Ecology to adopt rules for light mitigation standards to reflect updated federal aviation regulations, guidelines, or standards in order to maintain consistency between federal aviation administration requirements and the requirements of this bill. Ecology has no way to predict if or when federal aviation regulations, guidelines, or standards will change. Therefore, the rule-making timeline and fiscal impacts are currently unknown.

# Individual State Agency Fiscal Note

|                                 |                               |  |
|---------------------------------|-------------------------------|--|
| <b>Bill Number:</b> 1173 E S HB | <b>Title:</b> Light pollution | <b>Agency:</b> 463-Energy Facility Site Evaluation Council |
|---------------------------------|-------------------------------|--|

## 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                           | 0.5     | 0.0     | 0.3     | 0.0     | 0.0     |
| <b>Account</b>                            |         |         |         |         |         |
| Climate Commitment Account-State<br>26c-1 | 76,416  | 0       | 76,416  | 0       | 0       |
| <b>Total \$</b>                           | 76,416  | 0       | 76,416  | 0       | 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: Angela Kleis | Phone: 360-786-7469   | Date: 03/02/2023 |
| Agency Preparation: Osta Davis    | Phone: 360-485-1674   | Date: 03/07/2023 |
| Agency Approval: Dave Walker      | Phone: 360-664-1345   | Date: 03/07/2023 |
| OFM Review: Lisa Borkowski        | Phone: (360) 742-2239 | Date: 03/08/2023 |

## 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.

Section 2 requires that future and existing wind energy facilities must comply with light mitigation requirements by January 1, 2027. Working with existing energy facility operators will require building up more internal expertise regarding light mitigation measures, evaluating existing technology, and completing a small business economic impact statement.

### 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.

.5 Executive-level FTE for one year for stakeholder engagement with the Federal Aviation Administration, military, existing facility operators, and agencies named in the bill as well as staff time required for evaluating existing technology, completing a small business economic impact statement, and implementation.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

| Account         | Account Title              | Type  | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|-----------------|----------------------------|-------|---------|---------|---------|---------|---------|
| 26c-1           | Climate Commitment Account | State | 76,416  | 0       | 76,416  | 0       | 0       |
| <b>Total \$</b> |                            |       | 76,416  | 0       | 76,416  | 0       | 0       |

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

|                                      | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|--------------------------------------|---------|---------|---------|---------|---------|
| FTE Staff Years                      | 0.5     |         | 0.3     |         |         |
| A-Salaries and Wages                 | 58,850  |         | 58,850  |         |         |
| B-Employee Benefits                  | 17,566  |         | 17,566  |         |         |
| C-Professional Service Contracts     |         |         |         |         |         |
| E-Goods and Other Services           |         |         |         |         |         |
| G-Travel                             |         |         |         |         |         |
| J-Capital Outlays                    |         |         |         |         |         |
| M-Inter Agency/Fund Transfers        |         |         |         |         |         |
| N-Grants, Benefits & Client Services |         |         |         |         |         |
| P-Debt Service                       |         |         |         |         |         |
| S-Interagency Reimbursements         |         |         |         |         |         |
| T-Intra-Agency Reimbursements        |         |         |         |         |         |
| 9-                                   |         |         |         |         |         |
| <b>Total \$</b>                      | 76,416  | 0       | 76,416  | 0       | 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 |
|--------------------|--------|---------|---------|---------|---------|---------|
| WMS Band 3         |        | 0.5     |         | 0.3     |         |         |
| <b>Total FTEs</b>  |        | 0.5     |         | 0.3     |         | 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.*



# Individual State Agency Fiscal Note

|                                 |                               |   |
|---------------------------------|-------------------------------|---|
| <b>Bill Number:</b> 1173 E S HB | <b>Title:</b> Light pollution | <b>Agency:</b> 468-Environmental and Land Use Hearings Office |
|---------------------------------|-------------------------------|---|

## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

|                          | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|--------------------------|---------|---------|---------|---------|---------|
| FTE Staff Years          | 0.0     | 0.3     | 0.1     | 0.3     | 0.3     |
| <b>Account</b>           |         |         |         |         |         |
| General Fund-State 001-1 | 0       | 40,848  | 40,848  | 70,342  | 70,342  |
| <b>Total \$</b>          | 0       | 40,848  | 40,848  | 70,342  | 70,342  |

### 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: Angela Kleis | Phone: 360-786-7469   | Date: 03/02/2023 |
| Agency Preparation: Dominga Soliz | Phone: 3606649173     | Date: 03/07/2023 |
| Agency Approval: Dominga Soliz    | Phone: 3606649173     | Date: 03/07/2023 |
| OFM Review: Lisa Borkowski        | Phone: (360) 742-2239 | Date: 03/08/2023 |

## 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.*

Section 2 - Requires owners or operators of utility scale wind energy facilities to operate an aircraft detection lighting system to mitigate light pollution from the facility.

Section 3 - Makes violation of the act subject to penalty of up to \$5,000 per day per violation, with penalties appealable to the Pollution Control Hearings Board (PCHB). The Department of Ecology is authorized to enforce the act.

Section 4 - Amends the PCHB's jurisdiction statute to include appeals of civil penalties imposed under the act.

Section 5 - Amends the State Environmental Policy Act (SEPA) to make actions in compliance with section 2 of the act categorically exempt from SEPA.

### 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 2 low complexity appeals per year resulting from this bill.

ELUHO assumes ELUHO's work on these appeals begins in July 2024 (FY 25) following the enforcement process by the Department of Ecology.

ELUHO estimates each appeal resulting from this bill will require approximately 150 hours of Administrative Appeals Judge (AAJ) work to complete (50 pre-hearing hours + 100 hearing and post-hearing hours) x 2 appeals. This estimate is based on a current analysis of AAJ work.

150 hours/appeal x 2 appeals = 300 AAJ hours per FY, ongoing.

Assume New AAJ FTE: The PCHB will need approximately 0.25 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 0.25 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 0.25 FTE AAJ, so the salary would be \$100,000 x 0.25 FTE = \$25,000, per FY, ongoing. Related benefits would total \$8,005, per FY, ongoing.

Goods and services for the 0.25 FTE are estimated at \$1,817 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 \$349 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 FTE if they have a workstation at the ELUHO office. We assume the 0.25 AAJ FTE would be offered the option of working remotely.

### 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       | 40,848  | 40,848  | 70,342  | 70,342  |
| <b>Total \$</b> |               |       | 0       | 40,848  | 40,848  | 70,342  | 70,342  |

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

|                                      | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|--------------------------------------|---------|---------|---------|---------|---------|
| FTE Staff Years                      |         | 0.3     | 0.1     | 0.3     | 0.3     |
| A-Salaries and Wages                 |         | 25,000  | 25,000  | 50,000  | 50,000  |
| B-Employee Benefits                  |         | 8,005   | 8,005   | 16,010  | 16,010  |
| C-Professional Service Contracts     |         |         |         |         |         |
| E-Goods and Other Services           |         | 1,937   | 1,937   | 3,634   | 3,634   |
| G-Travel                             |         | 349     | 349     | 698     | 698     |
| 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-                                   |         |         |         |         |         |
| <b>Total \$</b>                      | 0       | 40,848  | 40,848  | 70,342  | 70,342  |

#### 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 |         | 0.3     | 0.1     | 0.3     | 0.3     |
| <b>Total FTEs</b>            |         |         | 0.3     | 0.1     | 0.3     | 0.3     |

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

NONE

### Part IV: Capital Budget Impact

#### IV. A - Capital Budget Expenditures

NONE

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

NONE

#### IV. C - Capital Budget Breakout

*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: 1173 E S HB

Title: Light pollution

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

### Legislation Impacts:

- Cities: Cities that own or operate wind energy facilities
- Counties: Counties that own or operate wind energy facilities
- Special Districts: Special districts that own or operate wind energy facilities
- Specific jurisdictions only:
- Variance occurs due to:

## Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs: Costs incurred by purchasing and installing aircraft detection lighting systems (ADLS)
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time: The number of wind energy facilities that may violate ADLS standards, and the number of facilities that would choose to appeal civil penalties.

### Estimated revenue impacts to:

None

### Estimated expenditure impacts to:

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

## Part III: Preparation and Approval

|                                      |                       |                  |
|--------------------------------------|-----------------------|------------------|
| Fiscal Note Analyst: Chelsea Mickel  | Phone: 518-727-3478   | Date: 03/03/2023 |
| Leg. Committee Contact: Angela Kleis | Phone: 360-786-7469   | Date: 03/02/2023 |
| Agency Approval: Allan Johnson       | Phone: 360-725-5033   | Date: 03/03/2023 |
| OFM Review: Lisa Borkowski           | Phone: (360) 742-2239 | Date: 03/06/2023 |

## **Part IV: Analysis**

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

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

#### **CHANGES BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:**

- Makes light pollution mitigation for wind energy facilities a stand-alone regulatory requirement to be enforced by the Department of Ecology (Ecology), rather than a condition of Energy Facility Site Evaluation Council (EFSEC) certification or local government permitting;
- Eliminates the requirement that Ecology adopt rules to establish light mitigation standards, and narrows the light mitigation requirements to require owners and operators of wind energy facilities to operate with an aircraft detection lighting system;
- Requires any wind energy facilities that are precluded from using an aircraft detection lighting system by the Federal Aviation Administration (FAA) to mitigate light pollution through alternative means demonstrated to Ecology to be the best available light mitigation option for the facility;
- Provides that wind energy facilities are not required to mitigate light pollution in a manner that conflicts with federal requirements, including FAA requirements;
- Requires Ecology to enforce light pollution mitigation requirements and prepare and distribute information to wind energy facility owners and operators, but does not authorize Ecology to adopt rules pertaining to this enforcement role;
- Prescribes a penalty of up to \$5,000 per day per violation, and makes penalties appealable to the Pollution Control Hearings Board;
- Provides that a penalty may be issued with a written notification, and the facility has a 60-day period to achieve compliance;
- Ecology may delay any combination of the issuance of a notification letter and the 60-day period in which compliance with the requirements must be achieved, or the imposition of penalties for good cause.
- Provides that the owner or operator of an existing utility-scale wind energy facility that submits an application to the FAA for the approval of an aircraft detection lighting system by January 1, 2026, but that has not received a determination from FAA by July 1, 2026, may not be penalized for noncompliance with light mitigation requirements until at least six months after the FAA makes a determination;
- Ecology may adopt by rule a light mitigation standard that references a more recent version of any FAA regulation, guideline, circular, or standard referenced in this bill in order to maintain consistency with FAA requirements.
- Exempts actions to mitigate light pollution at existing utility-scale wind energy facilities from review under the State Environmental Policy Act; and
- Provides an emergency clause, making the act take effect immediately.

#### **SUMMARY OF CURRENT BILL:**

The engrossed substitute bill requires new and existing wind energy facilities to mitigate light pollution through the use of aircraft detection lighting systems (ADLS), or through alternative forms of light mitigation if federal requirements preclude the installation of an aircraft detection lighting system at a facility.

### **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:**

In comparison to the original version of the bill, the engrossed substitute bill would have additional expenditure impacts on local governments.

This version of the bill removes language requiring Ecology to adopt rules to establish light mitigation standards. This would decrease local governments' expenditures, since jurisdictions that would have chosen to participate in the rulemaking process would no longer incur costs to do so. This bill also prescribes a penalty of up to \$5,000 per day for facilities that violate ADLS standards, and makes penalties appealable to the Pollution Control Hearings Board. Local governments that operate wind energy facilities would incur costs in the form of civil penalties. Since it is unknown how

many wind energy facilities are operated by local governments, or how many may violate ADLS standards, expenditure impacts are indeterminate.

#### EXPENDITURE IMPACTS OF CURRENT BILL:

This bill would have indeterminate expenditure impacts on local governments.

Local governments that operate wind energy facilities would incur costs for purchasing, installing and operating ADLSs. For illustrative purposes, estimates from a report on the Alle-Catt Wind Farm located near the Allegany, Cattaraugus, and Wyoming counties in New York State found that total costs for an ADLS that was compliant with FAA standards would amount to \$1,523,450. This includes cost of equipment, installation and maintenance costs. The Alle-Catt project is a planned 340 Megawatt (MW) wind farm with approximately 117 turbines. The costs of purchasing and operating an ADLS would vary depending on the size of the wind energy facility, and is thus indeterminate.

The removal of language authorizing Ecology to undertake an ADLS rulemaking process eliminates local government expenditures that may have been accrued by their participation. Since it is unknown how many jurisdictions would have chosen to engage in the rulemaking process, the reduction in costs to local governments is indeterminate.

Ecology may enforce ADLS standards by penalizing facilities found to be in violation of established light mitigation standards by assigning civil penalties of up to \$5,000 per day. If local governments operated wind-turbine facilities that violated ADLS standards, they may incur penalty costs in the form of civil penalties. Facilities may appeal prescribed penalties to the Pollution Control Hearings Board, and would incur costs in terms of staff time if they chose to do so. Since it is unknown how many wind energy facilities are operated by local governments, or how many facilities may violate ADLS standards, expenditure impacts from non-compliance are indeterminate.

### 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:

In comparison to the original version of the bill, the engrossed substitute bill would not create additional revenue impacts on local governments.

#### REVENUE IMPACTS OF CURRENT BILL:

This bill would not have revenue impacts on local governments.

#### SOURCES

Department of Commerce, Energy Division

Department of Public Service, New York State

Energy Facility Site Evaluation Council

House Bill Report, ESHB 1173, Environment & Energy Committee, (2023)

House Bill Report, SHB 1173, Environment & Energy Committee, (2023)

Local Government Fiscal Note, SB 22-110, Legislative Council Staff, Colorado Legislature, (2022)

Local Government Fiscal Note, HB 1173, (2023)

Local Government Fiscal Note Program, Travel Cost Model (2023)

United States Office of Energy Efficiency and Renewable Energy