

Multiple Agency Fiscal Note Summary

Bill Number: 5369 SB 5369 AMH ENV H1687.2	Title: Polychlorinated biphenyls
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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	24,000	0	0	20,000	0	0	0
Total \$	0	0	24,000	0	0	20,000	0	0	0

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	.1	0	0	24,000	.1	0	0	20,000	.0	0	0	0
Department of Health	.1	10,000	10,000	10,000	.0	0	0	0	.0	0	0	0
Department of Ecology	2.9	0	0	822,299	1.8	0	0	518,928	1.2	0	0	328,336
Department of Ecology	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
Environmental and Land Use Hearings Office	.0	0	0	0	.6	143,303	143,303	143,303	.8	182,444	182,444	182,444
Total \$	3.1	10,000	10,000	856,299	2.5	143,303	143,303	682,231	2.0	182,444	182,444	510,780

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 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

Estimated Capital Budget Breakout

Prepared by: Lisa Borkowski, OFM	Phone: (360) 742-2239	Date Published: Final 4/13/2023
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Individual State Agency Fiscal Note

Bill Number: 5369 SB 5369 AMH ENVI H1687.2	Title: Polychlorinated biphenyls	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		24,000	24,000	20,000	
Total \$		24,000	24,000	20,000	

Estimated Operating Expenditures from:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.2	0.1	0.1	0.0
Account					
Legal Services Revolving Account-State 405-1	0	24,000	24,000	20,000	0
Total \$	0	24,000	24,000	20,000	0

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

- 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: Dan Jones	Phone: 360-786-7118	Date: 03/23/2023
Agency Preparation: Dave Merchant	Phone: 360-753-1620	Date: 03/29/2023
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 03/29/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 03/29/2023

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 1: Findings: Safer, feasible, and available alternatives to Polychlorinated Biphenyls (PCB) containing paints and printing inks now exist.

Section 2: Definitions

Section 3: Requires the Department of Ecology (Ecology) to petition the United States Environmental Protection Agency (EPA) to reassess various regulations about PCBs in paints and printing inks; specific findings to include in the petition.

Section 4: Bans wholesale and manufacture of paint containing chlorine-based pigments starting 1/1/2025. Bans retail sales of paint containing chlorine-based pigments starting 1/1/2026. Requires rulemaking related to products containing PCBs and bans sales 12 months after adoption of rules. Contains exceptions related to department decisions and court intervention.

Section 5: Rulemaking and fiscal provisions.

Section 6: Technical amendment to RCW 43.21B.110.

Section 7: Sections 1-5 are new chapter to RCW 70A.

Section 8: Severability clause.

II. B - Cash receipts Impact

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

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

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

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

AGO AGENCY ASSUMPTIONS:

Ecology will be billed for non-Seattle rates:

FY 2025: \$24,000 for 0.1 Assistant Attorney General FTE (AAG) and 0.05 Legal Assistant FTE (LA).

FY 2026: \$20,000 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.

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

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

for all FTE identified.

Agency administration support FTE are included in the tables. The Management Analyst 5 (MA) is used as a representative classification. An example ratio is 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 an MA.

Assumptions for the AGO Ecology Division’s (ECY) legal services for the Department of Ecology (Ecology):

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

Ecology will not require substantial legal advice for the development of the rulemaking petition to the Environmental Protection Agency (EPA) required by Section 3 by June 1, 2025.

Ecology will not require substantial legal advice or representation to enforce the ban on sale of paints and inks that include chlorinated pigments starting June 1, 2025, for manufacturers/wholesalers, and December 1, 2026, for retailers imposed Section 4(1).

The same is true for enforcement of the ban that will apply on other products that contain inadvertent polychlorinated biphenyls (PCBs) as a result of the inclusion of pigments, which are to be identified by Ecology rule. Ecology assumes compliance will be achieved through technical assistance.

Ecology will require legal advice and guidance with the rulemaking required by Section 4 and authorized by Section 5 to identify other products, in addition to paints and inks that have inadvertent PCBs as a result of the inclusion of pigments. Such products become subject to ban 12 and 24 months after completion of rulemaking for manufacturers/wholesalers and retailers, respectively.

Ecology will initiate rulemaking by October 1, 2023, and complete by December 2025. AGO support costs are estimated at 0.10 AAG FTE in FY 2025 and 0.08 AAG FTE in FY 2026 to provide legal advice and guidance during the rulemaking processes outlined in Sections 4 and 5 of this bill.

Ecology does not assume advice in regard to a regulatory determination to require reporting for inadvertent PCBs in paints and inks or for a rulemaking to adopt rules requiring such reporting, as required by Section 4(7), if the ban on paints and inks with chlorinated pigments is determined by a court to be preempted by federal law.

ECY: Total non-Seattle workload impact:
 FY 2025: \$24,000 for 0.1 AAG and 0.05 LA.
 FY 2026: \$20,000 for 0.08 AAG and 0.04 LA.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
405-1	Legal Services Revolving Account	State	0	24,000	24,000	20,000	0
Total \$			0	24,000	24,000	20,000	0

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.2	0.1	0.1	
A-Salaries and Wages		16,000	16,000	14,000	
B-Employee Benefits		5,000	5,000	4,000	
E-Goods and Other Services		3,000	3,000	2,000	
Total \$	0	24,000	24,000	20,000	0

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Assistant Attorney General	118,700		0.1	0.1	0.0	
Legal Assistant 3	55,872		0.1	0.0	0.0	
Management Analyst 5	91,524		0.0	0.0	0.0	
Total FTEs			0.2	0.1	0.1	0.0

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Ecology Division (ECY)		24,000	24,000	20,000	
Total \$		24,000	24,000	20,000	

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

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

NONE

Part V: New Rule Making Required

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

Individual State Agency Fiscal Note

Bill Number: 5369 SB 5369 AMH ENVI H1687.2	Title: Polychlorinated biphenyls	Agency: 303-Department of Health
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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	0.1	0.0	0.1	0.0	0.0
Account					
General Fund-State 001-1	10,000	0	10,000	0	0
Total \$	10,000	0	10,000	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: Dan Jones	Phone: 360-786-7118	Date: 03/23/2023
Agency Preparation: Katie Osete	Phone: 3602363000	Date: 03/29/2023
Agency Approval: Kristin Bettridge	Phone: 3607911657	Date: 03/29/2023
OFM Review: Breann Boggs	Phone: (360) 485-5716	Date: 03/31/2023

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.

The original bill directed Ecology (ECY), in consultation with the Department of Health (DOH), to petition the United States Environmental Protection Agency (US EPA) to reassess its regulation on the inadvertent product of polychlorinated biphenyls (PCBs).

Amendment H1687.2 deletes references to chapter 70A.350 RCW and its associated requirements. Instead, the bill now creates a new chapter in Title 70A RCW. The requirement for ECY to petition EPA is now found in Section 3 with the requirements unchanged. A new Section 4 has been added that includes restrictions on the manufacture, sale, or distribution in Washington for chlorine-based pigments, implemented and enforced by ECY.

Section 3: ECY is directed to petition EPA to reassess its regulations on PCBs in consumer products. The petition would include existing information on human health effects, releases and exposures, and safer alternatives. ECY assumes they would consult with DOH to complete the petition and submit to the EPA in January 2024 with a goal of EPA's completed petition review by January 1, 2025.

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.

Section 3: ECY is directed to petition EPA to reassess its regulations on PCBs in consumer products. The petition would include existing information on human health effects, releases and exposures, and safer alternatives. ECY assumes they would consult with DOH to complete the petition and submit to the EPA in January 2024 with a goal of EPA's completed petition review by January 1, 2025.

DOH estimates this would require 0.10 FTE Toxicologist 3 [TOX3] to work with ECY to:

- Provide scientific expertise
- Review the petition

Total Cost for FN:

Fiscal Year 2024: \$10,000 and 0.10 FTE

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	10,000	0	10,000	0	0
Total \$			10,000	0	10,000	0	0

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.1		0.1		
A-Salaries and Wages	7,000		7,000		
B-Employee Benefits	2,000		2,000		
E-Goods and Other Services	1,000		1,000		
Total \$	10,000	0	10,000	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
TOXICOLOGIST 3	103,572	0.1		0.1		
Total FTEs		0.1		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

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

Bill Number: 5369 SB 5369 AMH ENVI H1687.2	Title: Polychlorinated biphenyls	Agency: 461-Department of Ecology
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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	2.3	3.4	2.9	1.8	1.2
Account					
Model Toxics Control Operating Account-State 23P-1	319,015	503,284	822,299	518,928	328,336
Total \$	319,015	503,284	822,299	518,928	328,336

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: Dan Jones	Phone: 360-786-7118	Date: 03/23/2023
Agency Preparation: Vince Chavez	Phone: 360-338-5034	Date: 03/30/2023
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 03/30/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 03/31/2023

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 5369, this bill makes the following changes related to Ecology:

Section 2 adds a new definitions section.

Previous section 3 provisions are removed for Ecology to develop a regulatory determination for paints and printing inks by June 1, 2025, and adopt a rule under the Safer Products for Washington law by December 1, 2026.

Section 4 would change the restrictions on paints and printing inks manufactured, sold, or distributed in the state to be based on the presence of chlorine-based pigments instead of Polychlorinated biphenyls (PCB)-containing paints and printing inks. Section 4 would prohibit the manufacture, sale, and distribution of paints or inks that contain chlorine-based pigments, beginning January 1, 2025, and would prohibit retail establishments from knowingly selling or offering for sale paints or printing inks that contain chlorine-based pigments starting January 1, 2026. Ecology would be required to initiate rulemaking by October 1, 2023, to identify products that may contain PCBs due to the presence of chlorine-based pigments.

Section 5 would authorize Ecology to adopt rules and would authorize penalties for violations.

Section 7 would create a new chapter in Title 70A RCW. The bill no longer amends chapter 70A.350 RCW (Pollution Prevention for Healthy People and Puget Sound Act, or commonly referred to as Safer Products Washington).

The changes to sections 3, 4, and 5 result in a change to fiscal impacts to Ecology.

This bill would direct Ecology to petition the United States Environmental Protection Agency (EPA) to reassess its polychlorinated biphenyls (PCB) regulations under the Toxic Substances Control Act and to establish restrictions for paints and printing inks containing chlorine-based pigments.

Section 3(1) would require Ecology to petition EPA to reassess regulations on excluded manufacturing processes from prohibitions on manufacturing, processing, distribution, and use of PCBs and PCB items under 40 C.F.R. Sec. 761.3. Section 3(2) would require the petition to include information on (a) health effects of PCBs; (b) concentrations of PCBs measured in consumer products and in state waters, soils, and fish tissue; (c) safer alternatives for consumer products that contain PCBs; and (d) other relevant data as determined by Ecology. Section 3(3) would allow Ecology to use previously compiled data and findings in developing the petition. Section 3(4) would allow Ecology to consult with the Department of Health (DOH) and other relevant state agencies in developing the petition. Section 3(5) would require Ecology to seek completion of the petition review to the extent practicable by January 1, 2025.

Section 4(1)(a) would restrict manufacturers and wholesalers from the manufacture, sale, or distribution in Washington of paints or printing inks that contain chlorine-based pigments starting January 1, 2025. Retail establishments would be prohibited from knowingly selling or offering for sale in Washington paints or printing inks that contain chlorine-based pigments starting January 1, 2026.

Section 4(1)(b) would restrict manufacturers and wholesalers from the manufacture, sale, or distribution in Washington of products containing PCBs as identified by Ecology starting 12 months after the adoption of rules. Retail establishments would be prohibited from knowingly selling or offering for sale in Washington products containing PCBs as identified by Ecology starting 24 months after the adoption of rules.

Section 4(2) would require covered persons demonstrate compliance to Ecology upon demand by the department.

Section 4(3) would require Ecology to conduct rulemaking to identify products that may contain PCBs due to the presence of chlorine-based pigments. Rulemaking would need to be initiated by October 1, 2023.

Section 4(4) would exempt recycled paint from the Paint Care program and previously owned products offered for sale by nonprofit organizations or through casual or isolated sales.

Section 4(5) would authorize Ecology to exempt qualifying products or categories of products.

Section 5(1) would authorize Ecology to adopt rules to implement the bill.

Section 5(2) would establish penalties for violations and requires Ecology to issue at least one notice of violation by certified mail prior to assessing a penalty.

Section 6 would establish appeal authority for the Pollution Control Hearings Board (PCHB).

Section 7 would establish sections 1 to 5 of this act as a new chapter in Title 70A RCW.

Section 8 would establish a severability clause.

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.

Ecology estimates no cash receipts from penalties as a result of the bill.

Section 4 establishes restrictions for paints and printing inks containing chlorine-based pigments.

Penalties under the new chapter are authorized by section 5(2). However, sections 4(6) and 4(7) would prevent Ecology from administering or enforcing any restriction or prohibition if a court determines that federal regulations preempt the restriction or if it does not align with any new regulation established by the U.S. Environmental Protection Agency (EPA).

Enforcement actions and penalties are 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 (FY) 2024 and ongoing to implement the requirements of sections 3, 4, and 5.

Section 3: Petition to EPA

Section 3 would require Ecology to petition EPA to reassess regulations on excluded manufacturing processes from prohibitions on manufacturing, processing, distribution, and use of PCBs and PCB items under 40 C.F.R. Sec. 761.3. Ecology assumes we would consult with DOH and other relevant state agencies in completing the petition and that we would use previously compiled data and findings. Ecology would seek to submit the petition to the EPA in January 2024 with a goal of EPA's completed petition review by January 1, 2025.

Ecology estimates this would require 0.5 FTE Environmental Planner 5, 0.10 FTE Toxicologist 2, 0.10 FTE Toxicologist 3, and 0.06 FTE Communications Consultant 5 for six months from July 1, 2023, to December 31, 2023, to write the petition,

consult with other agencies, provide necessary scientific expertise, review, and submit the petition. (0.25 FTE EP5, 0.05 FTE Tox2, 0.05 FTE Tox3, and 0.03 FTE CC5, one-time in FY 2024)

Section 4(3) and 5(1): Rulemaking

Section 4(3) would require Ecology to conduct rulemaking to identify products that may contain PCBs due to the presence of chlorine-based pigments. Section 5(1) would also authorize Ecology to adopt rules to implement the bill. Ecology assumes rulemaking would start no later than October 1, 2023, in accordance with the requirement of section 4(3), and conclude by December 31, 2025. Ecology assumes the rulemaking would take 27 months consistent with similar rulemaking processes for new rules with a high level of technical analysis and public interest. Ecology estimates that rulemaking would require the following:

0.50 FTE Environmental Planner 3 (EP3), from July 1, 2023, through December 31, 2025; to serve as the lead point of contact of the rulemaking process, develop rule language, conduct rulemaking, develop economic analysis documents, develop Concise Explanatory Statement, and management of rulemaking file and related documents. (EP3: 0.50 FTE FY 2024, 0.50 FTE FY 2025, 0.25 FTE FY 2026)

0.25 FTE Environmental Planner 5 (EP5), from July 1, 2023, through December 31, 2025; to assist with development of rule language, conduct rulemaking, assist with development of economic analysis documents, assist with development of the Concise Explanatory Statement. (EP5: 0.25 FTE FY 2024; 0.25 FTE FY 2025, 0.13 FTE FY 2026)

0.5 FTE Chemist 3 (Chem3), from July 1, 2023, through December 31, 2025; to provide scientific data analysis expertise in the identification of products containing PCBs due to the presence of chlorine-based pigments as well as development of rule language and rulemaking. (Chem3: 0.5 FTE FY 2024, 0.5 FTE FY 2025, 0.25 FTE FY 2026)

0.5 FTE Toxicologist 2 (Tox2), from January 1, 2024, through December 31, 2025; to provide scientific data analysis expertise in the identification of products containing PCBs due to the presence of chlorine-based pigments as well as development of rule language and rulemaking. (Tox2: 0.25 FTE FY 2024, 0.5 FTE FY 2025, 0.25 FTE FY 2026)

0.10 FTE Communications Consultant 3 (CC3), from July 1, 2023, through December 31, 2025; to coordinate stakeholder involvement and assist with rulemaking and development of the Concise Explanatory Statement. (CC3: 0.10 FTE FY 2024, 0.10 FTE FY 2025, 0.05 FTE FY 2026)

0.20 FTE Economic Analyst 3 (EA3) and 0.05 FTE Regulatory Analyst 2 (RA2) in FY 2025 and FY 2026; would be needed to prepare the cost benefit analysis of the rulemaking outlined in section 5(1). (EA3: 0.1 FTE FY 2025, 0.1 FTE FY 2026; RA2: 0.03 FTE FY 2025, 0.03 FTE FY 2026)

Ecology assumes 1 public meeting and 1 public hearing in FY 2025. Cost estimates include facility rental costs, estimated at \$1,000 per meeting for a total of \$2,000 in FY 2026 in Object E.

Attorney General costs are estimated at 0.10 AAG FTE and 0.05 Legal Assistant FTE (\$24,000) in FY 2025 and 0.08 AAG FTE and 0.04 Legal Assistant FTE (\$20,000) in FY 2026 to provide legal advice and guidance during the rulemaking processes outlined in Sections 4 and 5 of this bill.

Additionally, Ecology may need to conduct additional rulemaking activities in future biennia, depending on whether Ecology identifies additional products to restrict after the finishing the first rulemaking. Any additional rulemakings are not included in this fiscal note and have an indeterminate fiscal impact. If additional rulemaking is required, Ecology would submit a budget request for additional funding.

Section 4: Implementation

Ecology assumes it will require 1.0 FTE of an Environmental Planner 4 (EP4) starting July 1, 2024 and ongoing to oversee

implementation of the bill's restrictions on paints and printing inks containing chlorine-based pigments and other products containing those pigments. This work would include preliminary and ongoing work identifying regulated products, identifying, and tracking manufacturers of regulated products, and overseeing compliance activities prior to the rule being in effect January 1, 2026, and ongoing after the rule has been established. (EP4: 1.0 FTE FY 2025 and ongoing)

Section 4(6) and 4(7)

Section 4(6) would limit enforcement in the event a court determines that federal regulations preempt the restriction or prohibition, or the restriction or prohibition does not align with any new regulation established by EPA. Ecology assumes the bill is enforceable as written and would not be restricted or preempted by federal law. Costs for compliance activities are therefore included above. If a court determines that federal regulations preempt the restriction or prohibition, Ecology would need to stop enforcement and adopt a rule as directed in section 4(7).

Under section 4(7), if the restriction or prohibition is determined by a court to be preempted by federal regulations, Ecology would be directed to establish a reporting requirement for the use of chlorine-based pigment manufacturing processes or the PCB content of paints, printing inks, or products identified by Ecology and adopt rules to establish a reporting requirement within 18 months of the determination of preemption. As it is currently unknown whether a court would determine that the restriction or prohibition is preempted by federal regulations, Ecology does not know whether these actions would be required, and therefore there is an indeterminate fiscal impact for this potential rulemaking.

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

SECTION 3 – Petition to EPA is estimated to require:

FY 2024: \$67,189 and 0.4 FTEs.

SECTIONS 4(3) and 5(1) – Rulemaking is estimated to require:

FY 2024: \$251,826 and 1.8 FTEs

FY 2025: \$339,116 and 2.3 FTEs

FY 2026: \$191,152 and 1.2 FTEs.

SECTION 4 – Implementation is estimated to require:

FY 2025 and ongoing: \$164,168 and 1.2 FTEs

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

FY 2024: \$319,015 and 2.3 FTEs

FY 2025: \$503,284 and 3.4 FTEs

FY 2026: \$354,760 and 2.4 FTEs

FY 2027 and ongoing: \$164,168 and 1.2 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.

Goods and Services are the agency average of \$5,224 per direct program FTE. Also, Goods and Services includes \$24,000 in FY 2025 and \$20,000 in FY 2026 for AGO cost estimates; also includes \$2,000 in FY 2026 for facility rental costs.

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
23P-1	Model Toxics Control Operating Account	State	319,015	503,284	822,299	518,928	328,336
Total \$			319,015	503,284	822,299	518,928	328,336

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	2.3	3.4	2.9	1.8	1.2
A-Salaries and Wages	173,372	260,415	433,787	270,133	178,584
B-Employee Benefits	62,412	93,748	156,160	97,249	64,290
E-Goods and Other Services	10,317	39,567	49,884	37,985	10,448
G-Travel	3,088	4,659	7,747	4,783	3,126
J-Capital Outlays	2,039	3,074	5,113	3,156	2,062
9-Agency Administrative Overhead	67,787	101,821	169,608	105,622	69,826
Total \$	319,015	503,284	822,299	518,928	328,336

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
CHEMIST 3	82,896	0.5	0.5	0.5	0.1	
COMM CONSULTANT 3	66,420	0.1	0.1	0.1	0.0	
COMM CONSULTANT 5	87,144	0.0		0.0		
ECONOMIC ANALYST 3	85,020		0.1	0.1	0.1	
ENVIRONMENTAL PLANNER 3	80,952	0.5	0.5	0.5	0.1	
ENVIRONMENTAL PLANNER 4	89,292		1.0	0.5	1.0	1.0
ENVIRONMENTAL PLANNER 5	98,592	0.5	0.3	0.4	0.1	
FISCAL ANALYST 2		0.2	0.3	0.3	0.2	0.1
IT APP DEV-JOURNEY		0.1	0.2	0.1	0.1	0.1
REGULATORY ANALYST 2	82,896		0.0	0.0	0.0	
TOXICOLOGIST 2	93,840	0.3	0.5	0.4	0.1	
TOXICOLOGIST 3	103,572	0.1		0.0		
Total FTEs		2.3	3.4	2.9	1.8	1.2

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 4(3) would require Ecology to conduct rulemaking to identify products that may contain PCBs due to the presence of chlorine-based pigments. Section 5(1) would give Ecology the authority to adopt new rules to implement, administer, and enforce the requirements of the bill.

Individual State Agency Fiscal Note

Bill Number: 5369 SB 5369 AMH ENVI H1687.2	Title: Polychlorinated biphenyls	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	0.0	0.0	0.6	0.8
Account					
General Fund-State 001-1	0	0	0	143,303	182,444
Total \$	0	0	0	143,303	182,444

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: Dan Jones	Phone: 360-786-7118	Date: 03/23/2023
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 03/28/2023
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 03/28/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 03/31/2023

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 4: Beginning Jan. 1, 2025, prohibits the manufacture, sale, and distribution by manufacturers or distributors of paints and inks containing chlorine-based pigments.

Beginning Jan. 1, 2026, prohibits the knowing retail sale of paints and inks containing chlorine-based pigments. Ecology may, by rule, identify additional products that may contain inadvertently generated polychlorinated biphenyls (PCBs) to be subject to restrictions on chlorine-based pigments.

Ecology must initiate rulemaking to identify such products by October 1, 2023. Any restrictions on the manufacture, sale, and distribution of paints and inks containing chlorine-based pigments may take effect no later than 12 months after the adoption of Ecology rules on such products.

Restrictions on the knowing sale of paints and inks containing chlorine-based pigments by retail establishments may take effect no later than 24 months after the adoption of Ecology rules.

Ecology may require a person to demonstrate compliance with a product through the submission of either information or testing data indicating that a chlorine-based manufacturing process was not used in the manufacture of pigments contained in a product.

Section 5: Ecology may adopt rules to implement, administer, and enforce the act. Ecology may impose a civil penalty of no more than \$5,000 for each violation of any requirement of the act for a first offense, with higher penalty for a repeat offense. Before imposing the penalty, Ecology must issue a notice of violation to the manufacturer or retail establishment at least 60 days in advance. Penalties and orders issued by Ecology may be appealed to the Pollution Control Hearings Board (PCHB).

Section 6: Amends the PCHB's jurisdictional statute to include appeals of civil penalties imposed under section 5 of the act

II. B - Cash receipts Impact

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

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 5 average/medium complexity appeals per year resulting from this bill.

ELUHO assumes ELUHO's work on these appeals begins in January 2026 (FY 26) following the enforcement process 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 5 appeals. This estimate is based

on a current analysis of AAJ work.

230 hours/appeal x 5 appeals = 1,150 AAJ hours per FY, ongoing.

Assume New AAJ FTE: The PCHB will need approximately 0.5 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 0.5 FTE will not serve as a member of the Boards, but will conduct legal research and writing, mediate cases, draft Board memos and materials, and perform other legal duties to assist the Board.

An AAJ makes \$100,000 per year, plus related benefits estimated at \$32,021 per year, at current benefits rates. The agency needs a 0.5 FTE AAJ, so the salary would be \$100,000 x 0.5 FTE = \$50,000, per FY, ongoing. Related benefits would total \$16,010, 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, and 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 0.25 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. The agency needs a 0.25 LA3 FTE so salary would be \$55,872 x 0.25 FTE = \$13,968 per FY, ongoing. Related benefits would total \$6,015 per FY, ongoing.

Goods and services for the total 0.75 FTE are estimated at \$4,181 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 \$1,048 per year, ongoing. Also included is one time equipment costs for furniture and computers totaling \$5,557 in FY 26.

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 0.5 AAJ FTE would be offered the option of working remotely and the LA3 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	0	0	143,303	182,444
Total \$			0	0	0	143,303	182,444

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years				0.6	0.8
A-Salaries and Wages				96,231	127,936
B-Employee Benefits				33,158	44,050
C-Professional Service Contracts					
E-Goods and Other Services				6,778	8,362
G-Travel				1,579	2,096
J-Capital Outlays				5,557	
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	0	0	143,303	182,444

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	0.5
Legal Assistant 3	55,872				0.2	0.3
Total FTEs					0.6	0.8

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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.