

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 1173 S HB PL	<b>Title:</b> Light pollution
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## 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	.0	0	0	0	.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>0.2</b>	<b>74,932</b>	<b>74,932</b>	<b>74,932</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> (360) 742-2239	<b>Date Published:</b> Final 4/29/2023
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 1173 S HB PL	<b>Title:</b> Light pollution	<b>Agency:</b> 405-Department of Transportation
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

NONE

**Estimated Capital Budget Impact:**

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact:	Phone:	Date: 04/25/2023
Agency Preparation: Terri Palumbo	Phone: 360-709-8096	Date: 04/27/2023
Agency Approval: Eric Johnson	Phone: 360-848-7115	Date: 04/27/2023
OFM Review: Maria Thomas	Phone: (360) 229-4717	Date: 04/27/2023

## 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 WSDOT 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> 1173 SHB.PL	<b>Title:</b> Light Pollution	<b>Agency:</b> 405-Department of Transportation
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## 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 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: 04/25/2023
Approval: Eric Johnson	Phone: 360-708-8970	Date: 04/25/2023
Budget Manager: Stephanie Hardin	Phone: 360-705-7545	Date: 04/26/2023

# 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 SHB 1173 PL adds clarifying definitions to apply throughout the chapter unless the context clearly requires otherwise.

Section 2, (1) of the SHB 1173 PL updates the exception section of the act, adds a beginning date of July 1, 2023, and changes the language from ‘must operate with an aircraft detection lighting system’ to include only new utility-scale wind energy facilities with five or more turbines to comply with the new rules which include the Federal Aviation Administration’s (FAA) regulations, requesting the FAA approval, and adding a timeline of installation after receipt of the FAA approval. It also adds a caveat that if the FAA does not approve the application, the developer, owner, or operator are not subject to this chapter.

Section 2 (2) removes the requirement to mitigate light pollution through alternative means if precluded from using these lighting systems because of any requirement of federal law. It adds, as provided in section 3 and a beginning date of January 1, 2028, or upon completion of repowering, whichever is earlier, the requirement to apply to the FAA for installation and operation of a light-mitigating technology system.

Section 2 (3) removes the effective date and changing the language to a developer, owner, or operator of a utility-scale wind energy facility shall follow any wind energy ordinance adopted by the legislative authority of a county by Section 3 of this act.

Section 3 (1) is new language and says a legislative authority of any county may adopt a wind energy ordinance that includes specifications for aviation obstruction light-mitigating technology systems.

Section 4 is like Section 3 in the ESHB 1173, with a change of ‘aircraft detection lighting’ to ‘light-mitigating technology’ and changing the dates to be out one year further.

Section 6 (Section 5 of ESHB 1173) removes clarifying language of site certification and applicable land use, environmental, and building permits.

There is no fiscal impact to the Washington State Department of Transportation because the changes and modifications in the ESHB 1173 PL do not create any added workload or policy implications for Washington State Department of Transportation. Therefore, the department’s assessment is still unchanged from the fiscal note given on ESHB 1173.

Note: This fiscal note analysis was based on a comparison of ESHB 1173 to ESHB 1173 PL.

### 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

## 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

*Name 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 S HB PL	<b>Title:</b> Light pollution	<b>Agency:</b> 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	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:	Phone:	Date: 04/25/2023
Agency Preparation: Jessica Moore	Phone: 360-529-7583	Date: 04/27/2023
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 04/27/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 04/27/2023

## 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 differences between 1173 ESHB and 1173 ESHB.PL are as follows:

Section 1 adds definitions for “light-mitigating technology system” and “repowering.”

Section 2 amends the timeline and types of facilities that would be subject to the requirements of the bill.

A new section 3 is added to amend chapter 36.01 RCW that would authorize counties to adopt wind energy ordinances that include aviation obstruction light-mitigating technology systems.

Section 3 becomes section 4, and subsequent section numbers are changed accordingly. Section 4 replaces aircraft detection lighting system with light-mitigating technology. The date by which approval from the Federal Aviation Administration applies for existing facilities is changed from January 1, 2026, to January 1, 2027.

Section 6 amends the requirements under which a categorical exemption under the State Environmental Policy Act would apply.

These changes do not change the fiscal impact to Ecology.

Under current law, Ecology does not have existing light pollution rules or regulate light pollution. The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions. Projects and government decisions undergoing environmental review under SEPA must evaluate associated potential impacts to light and glare, aesthetics, and scenic resources, among other elements.

This bill would establish requirements for owners, operators, or developers of utility-scale wind energy facilities to apply to the Federal Aviation Administration (FAA) to be allowed to install a light pollution mitigation system, authorize enforcement by Ecology, and create a categorical exemption under SEPA for actions to mitigate light pollution at utility-scale wind energy facilities.

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

Section 2 would require owners, developers, and operators of new wind energy facilities, starting July 1, 2023, with five or more turbines, to apply to the FAA for approval to install a light-mitigating technology system. Owners, developers, and operators of existing utility-scale wind energy facilities with five or more turbines would be required to apply to the FAA for approval to install a light-mitigating technology system upon repowering or beginning January 1, 2028, whichever is earlier. Installation would be required within 24 months of approval. Utility-scale wind energy facilities would be required to comply with wind energy ordinances adopted by counties as authorized under section 3.

Section 3 would add a new section to chapter 36.01 RCW that would authorize counties to adopt wind energy ordinances that include aviation obstruction light- mitigating technology systems.

Section 4 would establish enforcement requirements and authorize Ecology to issue a penalty of \$5,000 per day, per violation for facilities out of compliance. Ecology would be required to rely on notification and information exchange with wind energy facility owners and operators. Ecology would be required to prepare and distribute information about the bill’s requirements to owners and operators. Ecology would be authorized to delay penalties for facilities out of compliance in

specific circumstances, including due to supply chain constraints. Ecology would be permitted to create rules and enforce requirements as outlined in the bill.

Section 5 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 6 would amend chapter 43.21C RCW, SEPA, to create a new categorical exemption for actions to mitigate light pollution for utility-scale wind energy facilities.

Section 7 would add sections 1, 2, and 4 as a new chapter under Title 70A RCW, the Environmental Health and Safety Law.

Section 8 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 9 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 4.

Section 4(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 4. Expenditures for outreach under section 4 are estimated to be less than \$50,000 in Fiscal Year (FY) 2024.

Section 4 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 FAA 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. Ecology assumes that providing the required notification to affected operators would begin after July 1, 2023, 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. The deadline for installation of light mitigation technology would be 2 years after a facility receives approval from the FAA. Existing facilities would be able to apply to the FAA starting July 1, 2023. Therefore, the earliest possible enforcement action would be after July 2025. Ecology has no way of knowing how many of the existing and new wind energy facilities would be required to comply with the requirements 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 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 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 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 light-mitigating technology systems at utility-scale wind energy facilities, with five or more turbines. Ecology assumes that staff time would be needed to track the status of each utility-scale wind energy facility starting in FY 2025. 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 6 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 4 Outreach  
 FY 2024: \$34,084 and 0.23 FTE

Section 4 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	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 4 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 FAA 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 S HB PL	<b>Title:</b> Light pollution	<b>Agency:</b> 463-Energy Facility Site Evaluation Council
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

NONE

**Estimated Capital Budget Impact:**

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact:	Phone:	Date: 04/25/2023
Agency Preparation: Osta Davis	Phone: 360-485-1674	Date: 04/28/2023
Agency Approval: Dave Walker	Phone: 360-664-1345	Date: 04/28/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 04/29/2023

## 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.*

Engrossed Second Substitute House Bill 1173 specifies the requirements of the bill apply to new and existing utility-scale wind energy facilities with five or more turbines and removes the specification that a legislative authority of any county may adopt a wind energy ordinance only when there is more than one technology approved by the federal aviation administration. Additionally, it removes the qualification that criteria related to the selection of light-mitigating technology systems have practicability. These changes have no anticipated fiscal impact on the Energy Facility Site Evaluation Council

Section 1 defines terms referenced in the bill.

Section 2 requires wind facilities owners and operators of new and existing facilities to apply to the FAA for installation of aircraft detection lighting systems. This requirement begins January 1, 2028, or upon completion of repowering for existing facilities and upon completion of construction for new facilities beginning July 1, 2023. A facility operator shall also comply with related ordinances adopted by local county authorities.

Section 3 states a legislative authority of a county may adopt ordinances related to specifications for light-mitigating technology systems. In adopting a system, a county may consider light impacts caused by a facility as well as costs associated with installation of light-mitigating technology systems and what best serves the public interest. A county may not deny a permit if the FAA does not allow use of a light-mitigating technology system.

Section 4 requires a penalty of up to \$5,000 per day, per violation and names Ecology to enforce these requirements. Ecology may delay the imposition of penalties if good cause delay is shown due to supply chain constraints, technology availability, contractor availability, or permitting delays. Penalties are appealable to the pollution control board.

Section 5 expands the Pollution Control Hearing Board jurisdiction to include light mitigation requirements.

Section 6 states that actions to mitigate light pollution at utility-scale wind facilities as required under section 2 are categorically exempt from the requirements of this chapter.

Section 7 creates a new chapter title in RCW Title 70A.

Section 8 adds a severability clause.

Section 9 adds an emergency 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.*

### 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> 1173 S HB PL	<b>Title:</b> Light pollution	<b>Agency:</b> 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	0.3	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:	Phone:	Date: 04/25/2023
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 04/26/2023
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 04/26/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 04/27/2023

## Part II: Narrative Explanation

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

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

NO CHANGE TO ANTICIPATED IMPACTS

Section 2 - Prohibits developers, owners, or operators of new utility scale wind energy facilities with 5 or more turbines from operating the facilities unless they apply to the Federal Aviation Administration (FAA) for installation of a light mitigating technology system. Developers, owners, or operators of existing facilities must apply to the FAA beginning January 2028 or on completion of repowering, whichever is earlier. Such systems must be installed within 24 months of approval. Facilities must comply with county wind energy ordinances.

Section 4 - 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 5 - Amends the PCHB's jurisdiction statute to include appeals of civil penalties imposed under the act.

Section 6 - 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.*

NO CHANGE TO ANTICIPATED IMPACTS

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 S HB PL

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: County legislative authorities may choose to adopt a wind energy ordinance regarding aviation obstruction light-mitigating technology systems (LMTS).
- 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: 04/26/2023
Leg. Committee Contact:	Phone:	Date: 04/25/2023
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 04/26/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 04/27/2023

## 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:

- Introduces a local option for county legislative authorities to adopt wind energy ordinance regarding aviation obstruction light-mitigating technology systems (LMTS)
- Requires developers, owners and operators of new wind facilities to comply with any wind energy ordinances adopted by county legislative authorities
- Starting July 1, 2023, developers, owners and operators of new wind facilities with five or more wind turbines must apply to the federal aviation administration (FAA) for installation of an LMTS
- Starting January 1, 2028, or after completing repowering, whichever is earlier, developers, owners, or operators of a wind facility that has commenced operations without an LMTS must apply to the FAA for installation and operation of a system that complies with FAA regulations
- If approved by the FAA, developers, owners and operators of utility-scale wind facilities with five or more wind turbines must install an LMTS on approved turbines within 24 months of receiving notification of approval

#### SUMMARY OF CURRENT BILL:

- Requires new and existing utility-scale wind energy facilities to apply to the FAA for installation of an LMTS that complies with FAA regulations by specified deadlines.
- Authorizes the Department of Ecology (Ecology) to enforce the light-mitigating technology system requirements.

### 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 previous version of the bill, the current version would have additional expenditure impacts on local governments.

**COSTS ASSOCIATED WITH ADOPTING A NEW ORDINANCE:** This current version of the bill introduces a local option for counties to adopt an ordinance regarding LTMS requirements. The typical cost to adopt an ordinance per jurisdiction ranges from \$586 for a simple ordinance to \$5,797 for a complex ordinance. These costs include costs for draft ordinances, advisory commission meeting and recommendation, finalized ordinance, publication of ordinance, and general public information. There are 39 counties in Washington State. If all 39 counties choose to adopt an ordinance, the cost would range from \$22,854 to \$226,083, depending on the complexity of the ordinance, and whether it requires a hearing. However, because it is unknown how many counties will choose to adopt an ordinance regarding light-mitigating technology systems, the total cost to counties is indeterminate.

Counties in Washington State: 39

Simple ordinance cost: \$586

Complex ordinance cost: \$5,797

$39 * \$586 = \$22,854$

$39 * \$5,797 = \$226,083$

**COSTS ASSOCIATED WITH APPLYING FOR FAA APPROVAL TO INSTALL AND OPERATE AN LMTS:** The average professional compensation at the local level is \$66 per hour, including benefits and overhead. Costs to local governments for applying to the FAA for installation of an LMTS would depend upon the number of hours of staff time required for each affected local government to complete the application process. The FAA operates an Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) online portal, where relevant parties can e-file a Notice of Proposed Construction or Alteration. The amount of time a staff member would require to complete the application would vary

based upon project complexity and access to necessary information. Additionally, since it is unknown how many local governments would need to apply to the FAA to install an LMTS, costs to local governments would be indeterminate.

#### EXPENDITURE IMPACTS OF CURRENT BILL:

This bill would have expenditure impacts on local governments.

Local governments that operate wind energy facilities would incur costs for purchasing, installing and operating LMTSs. 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. According to DeTect Inc, a company that produces LMTSs, the cost of an LMTS ranges from \$1 million to \$2 million for the average wind farm. The costs of purchasing and operating a LMTS would vary depending on the size of the wind energy facility. Since it is unknown how many wind farms would need to install an LTMS, costs of installation and maintenance are indeterminate.

Ecology may enforce LMTS 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 LMTS 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 LMTS 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 previous version of the bill, the current version 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

Federal Aviation Administration, AC 70/7460-1L - Obstruction Marking and Lighting, (2015)

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

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

KCUR, NPR in Kansas City, (2023)

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

Local Government Fiscal Note, ESHB PL 1173, (2023)

Local Government Fiscal Note, HB 1173, (2023)

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

Senate Bill Report, ESHB PL 1173, Environment, Energy & Technology Committee, (2023)

Summary of Legislation, SB 49, Kansas Legislative Research Department, (2023)

United States Office of Energy Efficiency and Renewable Energy