

Multiple Agency Fiscal Note Summary

Bill Number: 1047 S HB PL	Title: Cosmetic product chemicals
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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 Health	1.2	418,000	418,000	418,000	.8	264,000	264,000	264,000	.8	264,000	264,000	264,000
Department of Ecology	2.7	0	0	1,221,261	5.6	0	0	2,066,936	6.5	0	0	2,336,630
Environmental and Land Use Hearings Office	.2	52,081	52,081	52,081	.8	182,444	182,444	182,444	.8	182,444	182,444	182,444
Total \$	4.1	470,081	470,081	1,691,342	7.2	446,444	446,444	2,513,380	8.1	446,444	446,444	2,783,074

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
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 5/ 3/2023
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Individual State Agency Fiscal Note

Bill Number: 1047 S HB PL	Title: Cosmetic product chemicals	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	1.6	0.8	1.2	0.8	0.8
Account					
General Fund-State 001-1	286,000	132,000	418,000	264,000	264,000
Total \$	286,000	132,000	418,000	264,000	264,000

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact:	Phone:	Date: 04/25/2023
Agency Preparation: Katie Osete	Phone: 3602363000	Date: 04/27/2023
Agency Approval: Kristin Bettridge	Phone: 3607911657	Date: 04/27/2023
OFM Review: Breann Boggs	Phone: (360) 485-5716	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 fiscal impact to the Department of Health (DOH) has not changed from the previous fiscal note.

This bill bans a list of eight intentionally added chemicals and chemical classes in cosmetics by Jan 1, 2025. Lead is restricted above 1 ppm, whether intentionally added or not. The restriction on formaldehyde releasing agents will be phased in by rulemaking, starting with no more than ten by Jan. 1, 2026. Ecology is the lead agency, with Health in a consultation role. The bill includes identifying safer alternatives by June 1, 2024 and making the information publicly available. By May 2024 and ongoing, the bill provides for initiatives to support small manufacturers of cosmetic products with certifications, and cosmetologists with transition to safer products. Support may include technical assistance, information resources, financial incentives, and disposal programs. The bill allows Ecology to adopt rules to implement, administer, and enforce the chapter, after undertaking a stakeholder process and considering stakeholder input. The bill establishes penalties Ecology can collect from manufacturers or distributors of products who violate requirements or rules under the chapter. Note that cosmetics are " articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance," which includes more products than what people often think of as "cosmetics," and does not include soap.

Enrolled Bill has changes from ENET S0988.1:

- Requires Ecology to identify a list of formaldehyde releasing agents that may be restricted, considering prevalence of use, potential to reduce disproportionate exposure, and other relevant information.
- Rulemaking on formaldehyde releasers will be phased. An initial list of no more than 10 can be identified for restriction on/after January 1, 2026.
- Additional formaldehyde releasing agents can be identified and restricted on/after January 1, 2027 and additional rulemaking to develop supplemental lists or additional restrictions may occur after January 1, 2027.

Striking amendment ENET S0988.1 has changes from SHB1047:

- Adds an ECY initiative with technical and financial support to cosmetologists and small businesses to transition to safer alternatives by May 2024 (Sec. 3).
- Makes it clear that ECY's determination of formaldehyde releasing agents will be done by rule and adds stakeholder engagement prior to rulemaking (Sec. 4).

SHB1047 has three changes from HB1047

- Restricts intentionally added lead in cosmetic products in any amount, in addition to lead at a level of one part per million.
- Clarifies that ingredients regulated as drugs by the United States Food and Drug Administration (FDA) are not subject to restrictions, but that restricted chemicals are restricted without regard to whether a product also contains FDA-regulated drug ingredients.
- Clarifies that penalties for violations of restrictions on the manufacture, distribution, and sale of restricted cosmetic products apply only to manufacturers that produce a product or import or domestically distribute a product in or into Washington.

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.

Sections 3(4) Hazard Assessments and 3(5) Technical Assistance:

Section 3(4) would require ECY, in consultation with the DOH) to use existing information to identify and assess the hazards of chemicals or chemical classes which can impact vulnerable populations and make that information available to the public by June 1, 2024. Ecology assumes community engagement efforts, in consultation with DOH, to identify products and businesses that Ecology should prioritize for the focus of outreach efforts to encourage participation in the small business technical assistance program.

Section 3(5) would require ECY to provide technical assistance, support, and resources to small businesses that manufacture cosmetics. ECY assumes community engagement efforts will be consultation with DOH, to identify products and businesses that ECY should prioritize for the focus of outreach efforts to encourage participation in the small business technical assistance program.

DOH assumes the need for 0.8 FTE of a Toxicologist 3 for Fiscal years 2024 and 0.25 FTE ongoing who would:

- Support in identifying which products to reformulate, what hazard assessments to request
- Assess hazards to identify safer alternatives, contribute to public report
- Support identification of formaldehyde releasers, with consideration to reducing disproportionate exposure
- Research products available for sale in WA
- Research ingredients in products targeted to vulnerable populations
- Provide technical support and expertise in identifying products and businesses for outreach efforts and participation in the small business technical assistance program
- Support rulemaking as requested by Ecology

Cost for Toxicologist 3 Consultation work:

State Fiscal Year (SFY) 2024 \$154,000 and 0.8 FTE

State Fiscal Year (SFY) 2025 \$50,000 and 0.25 FTE ongoing

DOH will also require 0.8 FTE of a Management Analyst 4 for Fiscal year 2024 and 0.5 FTE ongoing:

- Develop strategies for community engagement or outreach and education campaigns that help identify personal care products to research and conduct hazard assessments and other outreach and cultural appropriate education opportunities.
- Identify community groups and tribal leaders for collaboration and input
- Ongoing consultation with Department of Ecology to develop initiative to help cosmetologists and small manufacturers transition to safer alternatives

Cost for Management Analyst 4 Support and Consultation work:

State Fiscal Year (SFY) 2024 \$132,000 and 0.8 FTE

State Fiscal Year (SFY) 2025 \$82,000 and 0.5 FTE ongoing

Total Cost for FN

SFY2024: \$286,000 and 1.6 FTE

SFY2025: \$132,000 and 0.8 FTE ongoing

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	286,000	132,000	418,000	264,000	264,000
Total \$			286,000	132,000	418,000	264,000	264,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.6	0.8	1.2	0.8	0.8
A-Salaries and Wages	155,000	72,000	227,000	144,000	144,000
B-Employee Benefits	54,000	25,000	79,000	50,000	50,000
E-Goods and Other Services	62,000	29,000	91,000	58,000	58,000
J-Capital Outlays	3,000		3,000		
T-Intra-Agency Reimbursements	12,000	6,000	18,000	12,000	12,000
Total \$	286,000	132,000	418,000	264,000	264,000

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
MANAGEMENT ANALYST 4	82,896	0.8	0.5	0.7	0.5	0.5
TOXICOLOGIST 3	103,572	0.8	0.3	0.6	0.3	0.3
Total FTEs		1.6	0.8	1.2	0.8	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.

Individual State Agency Fiscal Note

Bill Number: 1047 S HB PL	Title: Cosmetic product chemicals	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	3.0	2.4	2.7	5.6	6.5
Account					
Model Toxics Control Operating Account-State 23P-1	686,122	535,139	1,221,261	2,066,936	2,336,630
Total \$	686,122	535,139	1,221,261	2,066,936	2,336,630

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: Vince Chavez	Phone: 360-338-5034	Date: 05/03/2023
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 05/03/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 05/03/2023

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 1047 SHB AMS ENET S0988.1, 1047 SHB.PL makes the following changes:

Section 4(2)(a) requires that when adopting rules to restrict chemicals that release formaldehyde, Ecology consider specific factors such as prevalence of use and disproportionate exposure.

Section 4(2)(b) directs Ecology to identify no more than 10 formaldehyde releasing chemicals for initial restrictions and establishes an effective date of not sooner than January 1, 2026 for restrictions to take effect.

Section 4(2)(c) establishes an effective date of not sooner than January 1, 2027 for restrictions on remaining formaldehyde releasing chemicals to take effect.

These changes to section 4 do not result in a change to the fiscal impact to Ecology.

Under current law, Chapter 70A.350 RCW (Pollution Prevention for Healthy People and Puget Sound Act) the Department of Ecology (Ecology) is required every five years to identify priority consumer products that are a significant source of, or use of, priority chemicals specified in RCW 70A.350.010, submit a report to the legislature, and determine regulatory actions regarding the priority chemicals and priority consumer products identified. Also, under current law, Chapter 70A.430 RCW (Children's Safe Products Act) establishes limits for children's cosmetics for lead, cadmium, and phthalates.

This bill would add a new chapter to Title 70A RCW known as the Toxic-Free Cosmetics Act to prohibit use of toxic chemicals found in cosmetic and personal care products.

Section 3(1) would ban the manufacture, sale, and distribution of any cosmetic product that contains any of the intentionally added chemicals or chemical classes specified in this section for use in this state beginning January 1, 2025.

Section 3(2) would ban the manufacture, sale, and distribution of any cosmetic product that contains intentionally added lead compounds at one part per million (ppm) or above, or as otherwise determined by Ecology through rulemaking beginning January 1, 2025.

Section 3(3) would allow in-state retailers to exhaust existing stock through sales until January 1, 2026.

Section 3(4) would require Ecology, in consultation with the Department of Health (DOH), to use existing information to identify and assess the hazards of chemicals or chemical classes that can provide the same function as the chemicals listed in 3(1) and impact vulnerable populations and make that information available to the public by June 1, 2024.

Section 3(5)(a) would require Ecology to implement an initiative to support small businesses to identify safer alternatives under Chapter 70A.350 RCW by May 2024.

Section 3(5)(b) would allow Ecology to provide (i) technical assistance and support; (ii) resources for chemical hazard assessments; and (iii) resources for reformulating products.

Section 3(6)(a) would require Ecology to implement an initiative to support cosmetologists and small businesses providing cosmetology services to identify safer alternatives under Chapter 70A.350 RCW by May 2024.

Section 3(6)(b) would allow Ecology to provide (i) technical assistance and support; (ii) resources for chemical hazard

assessments; and (iii) resources for reformulating products. This initiative may include providing financial incentives to eligible participants for replacing cosmetic products containing toxic chemicals.

Section 3(7)(a) clarifies that cosmetic products do not include prescription drugs approved by the United States Food and Drug Administration; and (b) chemicals in sub-section (1) are restricted in cosmetics regardless of whether the product also contains drug ingredients regulated by the United States Food and Drug Administration.

Section 4(1) would authorize Ecology to adopt rules as necessary to implement, administer, and enforce this chapter.

Section 4(2)(a) would require Ecology to adopt determinations about formaldehyde releasers by rule and specifies factors that Ecology must consider when doing so.

Section 4(2)(b) authorizes Ecology to adopt rules restricting not more than 10 formaldehyde releasing chemicals as of a date not sooner than January 1, 2026.

Section 4(2)(c) authorizes Ecology to adopt rules restricting the remaining formaldehyde releasing chemicals identified by the department effective not sooner than January 1, 2027.

Section 4(2)(d) authorizes, but does not require, Ecology to conduct additional rulemaking after January 1, 2027 to restrict additional formaldehyde releasing agents.

Section 4(3) would require Ecology to engage with stakeholders prior to commencing rulemaking.

Section 4(4) would establish a penalty for manufacturers who fail to comply with the requirements of the bill.

II. B - Cash receipts Impact

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

No cash receipts are estimated for the penalty provisions under section 4.

Section 4(4) would establish a penalty for manufacturers who fail to comply with the requirements of the bill up to \$5,000 for a first offense and \$10,000 for a repeat offense. Section 4(5) would allow penalties to be appealed to the Pollution Control Hearings Board. Section 4(6) would require all penalties to be deposited into the Model Toxics Control Operating Account.

The penalty authority under this chapter is consistent with Ecology's authority to issue penalties for manufacturers in violation of chapter 70A.350 RCW. 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 estimated to be greater than \$50,000 in Fiscal Year (FY) 2024 and ongoing to implement the requirements of sections 3 and 4.

Section 3(1) and 3(2) Enforcement of Banned Chemicals:

Beginning January 1, 2025, the bill would establish a ban on specified ingredients in cosmetic products. Ecology assumes enforcement would require determining if any companies are selling non-compliant products and ensure they stop selling

those products. Enforcement would begin January 1, 2026, when the exemption to sell existing stock produced before the 2025 ban in Section 3 ends. It is estimated that enforcement would require 0.50 FTE of an Environmental Specialist 4 (ES4) starting in FY 2026 to research products available for sale in Washington and evaluate compliance, receive, and respond to complaints about restricted products being sold, and work with the Environmental Planner 5 project lead and product testing staff in the Environmental Assessment Program. (ES4: 0.50 FTE FY 2026 and ongoing). Ecology assumes compliance efforts would need the technical support of a 0.25 FTE Chemist 3 starting in FY 2026. (Chem 3: 0.25 FTE FY 2026 and ongoing).

Ecology also estimates the need for 0.25 FTE in FY 2025 and 0.50 FTE in FY 2026 and ongoing of an Environmental Planner 5 and 0.1 FTE of a Community Outreach Environmental Education Specialist 2 in FY 2026 and ongoing to coordinate with enforcement staff to communicate with manufacturers and retailers about restrictions and develop appropriate outreach materials as detailed in the plan (EP5: 0.25 FTE FY 2025, 0.50 FTE FY 2026 and ongoing, COEES 2: 0.1 FTE FY 2026 and ongoing).

Section 3(1) and 3(2) Compliance Testing:

Ecology assumes the Environmental Assessment Program would conduct compliance testing of cosmetics for the chemicals banned in Section 3(1). This would include:

- developing methods for the chemicals that do not currently have accredited methods.
- analyzing samples at Ecology's Manchester Environmental Laboratory and managing contracts for the work as needed when contract labs are available to perform the testing.
- validating laboratory data.
- developing project plans for compliance testing.
- purchasing cosmetics products identified for testing.
- analyzing and reporting results.

Beginning January 1, 2026, Ecology would require a project manager (Natural Resource Scientist 2) to develop and carry out product testing studies to evaluate compliance after the exemption for selling existing stock ends. The project manager would write the project plan for the study, perform data quality assessments, and summarize and report the data. (NRS2: 0.5 FTE FY 2026, 1 FTE FY 2027 and ongoing).

Beginning July 1, 2025, Ecology would require a senior level chemist to perform method development and analysis. The chemist would develop analytical methods at Ecology's laboratory for complex cosmetic matrices and analyze samples. Beginning July 1, 2026, Ecology would require an additional senior level chemist to conduct laboratory data validation and laboratory contracting services. This chemist would identify data quality needs and work with contract laboratories to complete analysis in line with regulatory requirements. They would also validate contracted data (Chemist 4: 1.0 FTE FY 2026, 2.0 FTE FY 2027 and ongoing).

Based on experience with prior studies, Ecology assumes laboratory analytical costs of \$20,000 in FY 2026 and then \$50,000 per year in FY 2027 and ongoing. Costs would include analyzing samples at Ecology's Manchester Environmental Laboratory or contracting work out when necessary. This estimate includes the costs to purchase cosmetic products identified for testing and analytical costs that range from \$300 to \$600 per sample. Additionally, we expect method development would increase sample costs by up to 50% for both initial method development and ongoing development for new cosmetic product types.

Section 3(2) Ecology assumes the lead or lead compounds level identified in this sub-section would meet current standards and that these levels would not be lowered in the near future. Therefore, Ecology assumes no rulemaking would be necessary for this section of the bill.

Sections 3(4) Hazard Assessments and 3(5) and 3(6) Technical Assistance:

Section 3(4) would require Ecology, in consultation with DOH, to use existing information to identify and assess the hazards of chemicals or chemical classes which can impact vulnerable populations and make that information available to the public by June 1, 2024.

Note that Ecology has existing one-time funding received in the 2022 supplemental operating budget that will be used in the 2021-23 biennium to test cosmetic products marketed to or used by people of color for potentially harmful chemicals or chemical classes.

Ecology assumes contracts (Object C) for 10 assessments in FY 2024, for hazardous assessments for 2 alternatives for each chemical in Section 3(1) at \$7,000 for each assessment. (\$14,000 x 10 = \$140,000). The hazard assessments are reports that use a systematic approach to synthesize existing data into a ranking or scoring system that allows for the identification of potentially safer chemicals. Using consistent methods to analyze existing data on chemical hazards helps balance data gaps and hazard trade-offs in a transparent and reproducible way. The chemical hazard assessment reports will have a consistent format to communicate hazards to interested parties.

Ecology also estimates the need for 0.25 FTE of Chemist 3 to manage contracts for hazard assessments required for Section 3(4) in FY 2024. The chemist will identify chemical alternatives that serve the same or similar function as the chemicals banned in section 3(1), prioritizing replacements for those that impact vulnerable populations. They will then contract hazard assessments on the potential alternatives to synthesize existing information in a way that allows us to determine whether they are safer than the banned chemicals. Hazard assessments use consistent methods to distill complex toxicology information about chemical hazards in a way that both businesses and the public can understand. (Chem 3: 0.25 FTE FY 2024).

Section 3(5) would require Ecology to provide technical assistance, support, and resources to small businesses that manufacture cosmetics. Section 3(6) would require Ecology to support cosmetologists and small businesses providing cosmetology services. Ecology assumes we would begin talking to businesses and cosmetologists about program design, goals, and application requirements in September 2023. We would open applications to the program by May 2024.

Ecology assumes community engagement efforts, in consultation with DOH, to identify products and businesses that Ecology should prioritize for the focus of outreach efforts to encourage participation in the small business technical assistance program.

Ecology estimates the need for 1.0 FTE of an Environmental Planner 5 in FY 2024 and ongoing to design and serve as the project manager for the technical assistance program for small business. The project manager would design and implement the financial mechanisms needed to provide resources to small businesses and would oversee any financial incentives program for product replacement. Ecology would develop and implement strategies for community engagement, outreach, and education to identify cosmetic products for research and hazard assessments. Ecology, with support from DOH, would integrate environmental justice and equity considerations into the design of the program and identify and conduct education and outreach on the availability and safety of certified cosmetic products. Ecology would serve as primary contact for the technical assistance program. Ecology would consult with Tribal leaders and work with DOH to engage community groups to get input and collaborate on the design and implementation of the technical assistance program. Ecology would also ensure that the technical assistance program and compliance effort complement each other, and support rulemaking efforts needed to implement the program. (EP5: 1.0 FTE FY 2024 and ongoing).

Ecology also estimates 0.25 FTE of a Community Outreach, Environmental Education Specialist 2 in FY 2024 and FY 2025 to reach out to small businesses before and during the launch of the technical assistance and financial incentive programs. (COEES 2: 0.25 FY 2024, 0.25 FTE FY 2025).

Ecology also estimates the need for 0.30 FTE of Chemist 3 to provide technical assistance to small businesses starting in FY 2025 and ongoing. The chemist will support business efforts to identify which products they would like to reformulate

and which hazard assessments to request during a certification effort. (Chem 3: 0.30 FTE FY 2025 and ongoing).

Ecology assumes we would begin program design and implementation of the technical assistance program in September 2023. This would allow us to have a rigorous stakeholder engagement process to ensure the program meets the needs of small business and cosmetologists. Implementation would begin with development of program goals and application requirements and outreach and engagement. This technical assistance program has two elements 1. Facilitating the evaluation of chemicals in products for hazards (product certification) and 2. Swapping out products with hazardous chemicals for safer products in professional settings (product swap out). Ecology anticipates that the costs associated with each element of the technical assistance program, described below, would begin by May 2024.

Ecology assumes that resources for product certification would be implemented through one or more of the following ways: 1) contracts (Object C) with third parties that assist businesses with reformulation and product certification 2) direct payments or vouchers to businesses that reformulate and then seek certification of their products as safer. Based on experience developing a pilot program with similar parameters and Ecology's toxics reduction technical assistance program, Ecology estimates 3-5 businesses to participate in the first year, growing to 5-10 businesses per year in future years, with program reimbursements ranging from \$10,000 to \$30,000 depending on the certification used and number of products assessed. Ecology assumes it would support 3-5 certifications in FY 2024 at \$90,000 and then 5-10 certifications for \$150,000 per year in FY 2025 and ongoing.

Ecology would also implement a swap out program to replace professional cosmetic products with safer products. Ecology estimates that the program providing financial incentives for product replacement would initially require between \$100 to \$1,000 per qualifying participant to receive training, obtain certification, or purchase compliant products to replace more toxic ones. We anticipate an initial budget for this program of \$25,000 ($\$100 \times 250 = \$25,000$), which would accommodate between 50 and 250 program participants. As of May 2021, the federal Bureau of Labor Statistics reports 6,710 hairdressers, hairstylists, and cosmetologists employed in Washington, so an initial program could cover costs for one to three percent of the state's workers in this industry.

Ecology assumes community engagement and outreach would help drive interest in the program by educating the public about safer certifications and how to identify certified cosmetics, as well as increase awareness of how the use of cosmetic products can affect human health and the environment. Ecology can do this by expanding interactions with communities to gather input about the cosmetic products they use. This engagement will inform the technical assistance outreach with a focus on sharing information about the resources available for reformulation and certification to businesses that use, sell, or make the products. Ecology assumes \$30,000 per year (Object E - Goods and Services), starting in FY 2024 and ongoing to partner with local governments, community groups, or other organizations. This supports the cost to hold workshops and engage with businesses and community members affected by the prohibition on cosmetic products or eligible for the technical assistance, support, and resources in Section 3.

Section 4(1) Rule Development:

Section 4(1) would authorize Ecology to adopt rules as necessary to implement, administer, and enforce this chapter, and Section 4(2) would require Ecology to adopt determinations about formaldehyde releasers by rule. Rules may restrict not more than 10 formaldehyde releasing chemicals as of a date not sooner than January 1, 2026, and may restrict the remaining formaldehyde releasing chemicals identified by the department effective not sooner than January 1, 2027. Section 4(3) would require Ecology to engage with stakeholders prior to commencing rulemaking.

Rulemaking for Cosmetic Product that contains formaldehyde releasers: Section 3(1) would include formaldehyde and chemicals determined by Ecology to release formaldehyde among the list of banned chemical classes beginning January 1, 2025.

Ecology assumes it would need to identify formaldehyde releasers through rulemaking by December 31, 2024. Starting July 1, 2023, Ecology assumes 0.5 FTE of a Communications Consultant 3 in FY 2024 and 0.25 FTE in FY 2025 to provide

communication efforts for stakeholder engagement prior to and during the rulemaking process. Ecology also assumes 0.25 FTE of a Chemist 3 in FY 2024 to provide technical support for the rulemaking. Ecology also assumes 0.25 FTE of Economic Analyst 3 and 0.1 FTE of a Regulatory Analyst 2 in FY 2024.

Ecology assumes no additional Attorney General Office (AGO) advice costs for rulemaking or compliance efforts to implement regulatory actions as a result of section 3. This is assumed to be covered under existing scheduled Safer Products Washington (SPWA) review and recommendations provided by the AGO.

Additional future rulemaking: Section 4(2)(d) authorizes, but does not require, Ecology to conduct additional rulemaking after January 1, 2027, to restrict additional formaldehyde releasing agents. The need for additional future rulemaking is unknown, and therefore expenditures are indeterminate.

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

Section 3(1) and 3(2) Enforcement is estimated to require:

FY 2025: \$45,113 and 0.3 FTEs

FY 2026 and ongoing: \$207,579 and 1.6 FTEs

Section 3(1) and 3(2) Compliance Testing is estimated to require:

FY 2026: \$259,698 and 1.7 FTEs

FY 2027 and ongoing: \$529,392 and 3.5 FTEs

Sections 3(4) Hazard Assessments and 3(5) and 3(6) Technical Assistance is estimated to require:

FY 2024: \$531,348 and 1.7 FTEs

FY 2025: \$458,996 and 1.8 FTEs

FY 2026 and ongoing: \$431,344 and 1.5 FTEs

Section 4(1) Rule Development is estimated to require:

FY 2024: \$154,774 and 1.3 FTE

FY 2025: \$31,030 and 0.3 FTE

The total expenditure impact to Ecology under this bill is estimated to be:

FY 2024: \$686,122 and 2.99 FTEs

FY 2025: \$535,139 and 2.36 FTEs

FY 2026: \$898,621 and 4.77 FTEs.

FY 2027 and ongoing: \$1,168,315 and 6.50 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.

Contracts includes \$230,000 in FY 2024, \$150,000 in FY 2025, \$170,000 in FY 2026, and \$200,000 in FY 2027 and ongoing for chemical hazard assessments and contracted lab analytical services.

Goods and Services are the agency average of \$5,224 per direct program FTE. Goods and Services also includes \$30,000 in FY 2024 and ongoing for outreach expenses to local communities.

Travel is the agency average of \$1,563 per direct program FTE.

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

Grants, Benefits, and Client Services includes \$25,000 in FY 2024 and ongoing for financial incentives for product replacement program participants.

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	686,122	535,139	1,221,261	2,066,936	2,336,630
Total \$			686,122	535,139	1,221,261	2,066,936	2,336,630

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.0	2.4	2.7	5.6	6.5
A-Salaries and Wages	217,471	179,390	396,861	862,544	992,738
B-Employee Benefits	78,290	64,580	142,870	310,517	357,386
C-Professional Service Contracts	230,000	150,000	380,000	370,000	400,000
E-Goods and Other Services	43,582	40,709	84,291	111,194	119,030
G-Travel	4,065	3,205	7,270	15,320	17,664
J-Capital Outlays	2,682	2,114	4,796	10,106	11,652
N-Grants, Benefits & Client Services	25,000	25,000	50,000	50,000	50,000
9-Agency Administrative Overhead	85,032	70,141	155,173	337,255	388,160
Total \$	686,122	535,139	1,221,261	2,066,936	2,336,630

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	0.3	0.4	0.6	0.6
CHEMIST 4	96,156				1.5	2.0
COM OUTREACH & ENV ED SP 2	58,704	0.3	0.3	0.3	0.1	0.1
COMM CONSULTANT 3	66,420	0.5	0.3	0.4		
ECONOMIC ANALYST 3	85,020	0.3		0.1		
ENVIRONMENTAL PLANNER 5	98,592	1.0	1.3	1.1	1.5	1.5
ENVIRONMENTAL SPEC 4	73,260				0.5	0.5
FISCAL ANALYST 2		0.3	0.2	0.2	0.5	0.6
IT APP DEV-JOURNEY		0.1	0.1	0.1	0.3	0.3
NAT RESOURCE SCIENTIST 2	68,076				0.8	1.0
REGULATORY ANALYST 2	82,896	0.1		0.1		
Total FTEs		3.0	2.4	2.7	5.6	6.5

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(1) would authorize Ecology to adopt rules as necessary to implement, administer, and enforce this chapter, and Section 4(2) would require Ecology to adopt determinations about formaldehyde releasers by rule. Section 3(1) would include formaldehyde and chemicals determined by Ecology to release formaldehyde among the list of banned chemical classes. Ecology assumes that we would need to identify formaldehyde releasers through rulemaking by December 31, 2024.

Individual State Agency Fiscal Note

Bill Number: 1047 S HB PL	Title: Cosmetic product chemicals	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	0.4	0.2	0.8	0.8
Account					
General Fund-State 001-1	0	52,081	52,081	182,444	182,444
Total \$	0	52,081	52,081	182,444	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:	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 3 (1) – Prohibits the manufacturing, selling, offering for sale, distributing for sale, and distributing for use in Washington cosmetic products that contain toxic chemicals.

Section 4 – The Department of Ecology can make rules to implement, administer, and enforce.

Section 4 (5) – Makes penalties and orders appealable to the Pollution Control Hearings Board.

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

ELUHO assumes ELUHO's work on these appeals begins in January 2025 (FY 25) 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 3 appeals. This estimate is based on a current analysis of AAJ work.

230 hours/appeal x 3 appeals = 690 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 \$16,011, 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 \$4,184 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 25.

Assume no capital budget impact: Currently, ELUHO leases space on the top floor of the State Parks building, Parsons Plaza. We assume we can repurpose space to include the FTEs if they have workstations at the ELUHO office. We assume the 0.5 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	52,081	52,081	182,444	182,444
Total \$			0	52,081	52,081	182,444	182,444

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.4	0.2	0.8	0.8
A-Salaries and Wages		32,263	32,263	127,936	127,936
B-Employee Benefits		11,133	11,133	44,050	44,050
C-Professional Service Contracts					
E-Goods and Other Services		2,597	2,597	8,362	8,362
G-Travel		531	531	2,096	2,096
J-Capital Outlays		5,557	5,557		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	52,081	52,081	182,444	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		0.3	0.1	0.5	0.5
Legal Assistant 3	55,872		0.1	0.1	0.3	0.3
Total FTEs			0.4	0.2	0.8	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.