

Multiple Agency Fiscal Note Summary

Bill Number: 2144 S HB	Title: Beverage deposit return prg.
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Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Office of State Treasurer	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Office of Attorney General	0	0	36,000	0	0	59,000	0	0	54,000
Department of Revenue	1,130,000	1,320,000	1,320,000	4,650,000	5,430,000	5,430,000	6,650,000	7,760,000	7,760,000
Department of Ecology	0	0	0	0	0	340,510	0	0	925,028
Total \$	1,130,000	1,320,000	1,356,000	4,650,000	5,430,000	5,829,510	6,650,000	7,760,000	8,739,028

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

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Office of State Treasurer	.0	0	0	0	.0	0	0	0	.0	0	0	0
Office of Attorney General	.2	0	0	36,000	.4	0	0	59,000	.3	0	0	54,000
Department of Commerce	Fiscal note not available											
Department of Revenue	.1	20,600	20,600	20,600	.0	0	0	0	4.0	789,600	789,600	789,600
Department of Ecology	1.8	0	0	518,549	3.8	0	0	1,152,328	2.4	0	0	925,028
Environmental and Land Use Hearings Office	.0	0	0	0	.4	122,554	122,554	122,554	.5	159,682	159,682	159,682
Total \$	2.1	20,600	20,600	575,149	4.6	122,554	122,554	1,333,882	7.2	949,282	949,282	1,928,310

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

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Office of State Treasurer	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Department of Commerce	Fiscal note not available								
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Department of Ecology	.0	0	0	.0	0	0	.0	0	0
Environmental and Land Use Hearings Office	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

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

Estimated Capital Budget Breakout

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Prepared by: Lisa Borkowski, OFM	Phone: (360) 742-2239	Date Published: Preliminary 1/30/2024
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Individual State Agency Fiscal Note

Bill Number: 2144 S HB	Title: Beverage deposit return prg.	Agency: 090-Office of State Treasurer
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

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

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: Rachele Harris	Phone: 360-786-7137	Date: 01/22/2024
Agency Preparation: Dan Mason	Phone: (360) 902-8990	Date: 01/23/2024
Agency Approval: Dan Mason	Phone: (360) 902-8990	Date: 01/23/2024
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 01/23/2024

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.

SHB 2144 creates the recycling revenue augmentation account and the deposit return organization program account, coupled with the general fund as the recipient of the earnings from investments from both accounts under RCW 43.79A.040(4).

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.

Projected cash flows are currently unavailable; therefore, estimated earnings from investments are indeterminable.

There may be an impact on the debt service limitation calculation. Changes to the earnings credited to the general fund impacts, by an equal amount, general state revenues.

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

Bill Number: 2144 S HB	Title: Beverage deposit return prg.	Agency: 100-Office of Attorney General
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Legal Services Revolving Account-State 405-1		36,000	36,000	59,000	54,000
Total \$		36,000	36,000	59,000	54,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.4	0.2	0.4	0.3
Account					
Legal Services Revolving Account-State 405-1	0	36,000	36,000	59,000	54,000
Total \$	0	36,000	36,000	59,000	54,000

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: Rachele Harris	Phone: 360-786-7137	Date: 01/22/2024
Agency Preparation: Dan Jensen	Phone: 360-664-9429	Date: 01/25/2024
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 01/25/2024
OFM Review: Val Terre	Phone: (360) 280-3973	Date: 01/26/2024

Part II: Narrative Explanation

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

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

Section 1 - New section. Findings and intent section.

Section 2 - New section. Definitions.

Section 3 - New section. Explains how this act relates to other qualifying beverage container producer programs to address recycling of such containers.

Section 4 - New section. Requires formation of Distributor Responsibility Organizations (DRO) to operate deposit return systems to meet the requirements of this chapter.

Section 5 - New section. Requires every distributor of beverages in qualifying beverage containers to join a DRO or register with the Department of Ecology (Ecology) as independently carrying out the requirements of this chapter. Sets forth additional duties.

Section 6 - New section. Sets forth initial reporting requirements for DRO's.

Section 7 - New section. Requires Ecology to implement, administer, and enforce this act and provides rulemaking authority to Ecology. Sets forth requirements for calculation and payment of fees and damages owed by a DRO.

Section 8 - New section. Provides restrictions on the use of unclaimed refunds by a DRO.

Section 9 - New section. Sets forth reuse and recycling performance requirements for DRO's along with verification requirements and performance penalties.

Section 10 - New section. Requires DRO's to submit a plan to Ecology to meet the requirements of Sections 11 through 20 of this act. Explains approval process of these plans.

Section 11 - New section. Provides the refund value of qualifying beverage containers purchased in Washington State and presented for a refund through the deposit return system. Allows distributors, dealers, and other entities selling beverages in qualifying containers to charge a deposit at the time of the sale.

Section 12 - New section. Establishes requirements related to a bulk drop-off program and drop-off network for collecting qualifying beverage containers. Establishes factors distributors must prioritize in establishing drop off locations.

Section 13 - New section. Provides drop-off capacity formula and network growth and realignment requirements for determining number of drop-off locations.

Section 14 - New section. Requires DRO's to create consumer convenience advisory council and provides the membership requirements of such council and their responsibilities.

Section 15 - New section. Requires DRO's to hire third-party consultants to conduct assessments of consumer convenience after certain timeframes and in consultation with Ecology and consumer convenience advisory council.

Section 16 - New section. Sets forth coordination requirements with Producer Responsibility Organizations and facilitating the redemption of qualifying beverage containers through other recycling pathways.

Section 17 - New section. Requires DRO's to provide plans for acceptance of direct, sorted returns in commercial quantities at its processing facilities.

Section 18 - New section. Provides annual reporting requirements for DRO's.

Section 19 - New section. Sets forth when a DRO is not required to accept or pay refunds.

Section 20 - New section. Requires certain education and outreach activities included in a DRO plan.

Section 21 - New section. Allows a distributor that is also a manufacturer to submit a plan to Ecology to operate a small-scale refund program for qualifying beverage containers.

Section 22 - New section. Requires a DRO to remit \$15,000,000 annually to the Department of Commerce's (Commerce) recycling revenue augmentation account created in Section 23 of this act.

Section 23 - New section. Creates the recycling Revenue Augmentation Account.

Section 24 - New section. Creates a DRO program account administered by Ecology.

Section 25 - New section. Sets forth the minimum postconsumer recycled content of drop-off bags.

Section 26 - New section. Sets forth civil penalties for DRO's.

Section 27 - New section. Contingency requirements for when a DRO ceases to exist.

Section 28 - New section. Provides a business and occupation tax deduction in 82.04 RCW for amounts derived from charges for the refund value of qualifying beverage containers.

Section 29 - Amends RCW 82.19.050. Exempts the charge for the refund value of qualifying beverage containers from Washington State's litter tax.

Section 30 - New section. Requirements of RCW 82.32.805 and RCW 82.32.808 do not apply to Sections 28 and 29 of this act.

Section 31 - New section. Adds to chapter 35.21 RCW. Requiring permitting or siting procedures to be consistent with Section 12 of this act.

Section 32 - New section. Adds to chapter 35A.21 RCW. Requiring permitting or siting procedures to be consistent with Section 12 of this act.

Section 33 - New section. Adds to chapter 36.01 RCW. Requiring permitting or siting procedures to be consistent with Section 12 of this act.

Section 34 - Amends RCW 70A.245.100. Penalties imposed in this act are deposited into the Recycling Enhancement Account.

Section 35 - New section. Requires Ecology and the Department of Revenue (DOR) to conduct a litter tax study in consultation with DRO's to determine possible improvements to the litter tax.

Section 36 - New section. Sections 1 through 27 and 35 of this act are a new chapter under Title 70A RCW.

This bill is assumed effective 90 days after the end of the 2024 legislative session.

II. B - Cash receipts Impact

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

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

The client agencies are the Department of Ecology (Ecology) and Department of Commerce (Commerce). The Attorney General's Office (AGO) will bill all clients for legal services rendered.

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

AGO AGENCY ASSUMPTIONS:

Ecology will be billed for non-King County rates:

FY 2025: \$18,000 for 0.1 Assistant Attorney General FTE (AAG) and 0.1 Paralegal 1 FTE (PL1)

FY 2026: \$32,000 for 0.2 AAG and 0.1 PL1

FY 2027 and in each FY thereafter: \$27,000 for 0.1 AAG and 0.1 PL1

Commerce will be billed for non-King County rates:

FY 2025: \$18,000 for 0.1 AAG and 0.1 PL1

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Attorney General's Office (AGO) Agency Assumptions:

This bill is assumed effective 90 days after the end of the 2024 legislative session.

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

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

Agency administration support FTE are included in the tables. The Management Analyst 5 FTE (MA), is used as a representative classification. An example ratio is for every 1.0 Assistant Attorney General FTE (AAG), the AGO includes 0.5 Paralegal 1 FTE (PL1) and 0.4 MA.

1. Assumptions for the AGO Ecology Division's (ECY) Legal Services for the Department of Ecology (Ecology):

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

Although not required under the law, ECY assumes a Distributor Responsibility Organization (DRO) representing a majority of qualifying beverage containers sold in the state will register with Ecology in March of 2025 in order to avoid being subject to the enhanced producer responsibility organization responsibilities imposed by HB 2049 or a similar bill also passed this

session. The voluntary registration of such a DRO is a prerequisite for any of the provisions of the bill to apply, per Section 4(4).

ECY will provide advice on rulemaking of moderate complexity starting October 2024 and concluding March 2026. ECY will provide advice and representation to ensure that distributors of qualifying beverage containers that do not join the majority DRO register and pay fees for Ecology's implementation costs starting October 2025, and ongoing each FY. ECY will provide advice and representation to ensure that independent distributors (not part of majority DRO), if any, implement their own distributor responsibility system. ECY will provide minimal advice to and representation of Ecology on reviewing the DRO registration and deposit return system (DRS) plan submitted by the DRO, and generally overseeing and enforcing the DRO carrying out its obligations, including fee payments, reports, and DRS implementation.

ECY: Total non-King County workload impact:

FY 2025: \$18,000 for 0.1 AAG and 0.1 PL1

FY 2026: \$32,000 for 0.2 AAG and 0.1 PL1

FY 2027 and in each FY thereafter: \$27,000 for 0.1 AAG and 0.1 PL1

2. Assumptions for the AGO Agriculture & Health Division's (AHD) Legal Services for the Department of Commerce (Commerce):

AGO will bill Commerce for legal services based on the enactment of this bill, which creates a new program within Commerce. Initial implementation in FY 2025 of the new recycling revenue augmentation program and fund created in Section 22 and 23 is expected to raise numerous legal questions from the client relating to requests from local governments and operators of curbside or drop-off recycling programs for funds to offset revenue losses, and regarding Commerce's determinations of validity of data supporting such requests. The need for legal services in subsequent fiscal years is assumed to be nominal and costs and not included in this request.

AHD: Total non-King County workload impact:

FY 2025: \$18,000 for 0.1 AAG and 0.1 PL

Total non-King County workload impact:

FY 2025: \$36,000 for 0.2 AAG and 0.1 PL1

FY 2026: \$32,000 for 0.2 AAG and 0.1 PL1

FY 2027 and in each FY thereafter: \$27,000 for 0.1 AAG and 0.1 PL1

3. The AGO Licensing & Administrative Law Division (LAL) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department Environmental and Land Use Hearings Board (ELUHO) or the Pollution Control Hearings Board (PCHB). New legal services are nominal and costs are not included in this request.

4. The AGO Revenue and Finance Division (REV) has reviewed this bill and determined it will not increase or decrease the division's workload in representing the Department of Revenue (DOR). This bill does not impose any additional requirements on the DOR that will require legal advice other than reviewing new administrative rules, therefore costs are not included in this request.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
405-1	Legal Services Revolving Account	State	0	36,000	36,000	59,000	54,000
Total \$			0	36,000	36,000	59,000	54,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.4	0.2	0.4	0.3
A-Salaries and Wages		24,000	24,000	40,000	36,000
B-Employee Benefits		8,000	8,000	13,000	12,000
E-Goods and Other Services		4,000	4,000	6,000	6,000
Total \$	0	36,000	36,000	59,000	54,000

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Assistant Attorney General	129,100		0.2	0.1	0.2	0.1
Management Analyst 5	95,184		0.1	0.1	0.1	0.1
Paralegal 1	69,072		0.1	0.1	0.1	0.1
Total FTEs			0.4	0.2	0.4	0.3

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Agriculture & Health Division (AHD)		18,000	18,000		
Ecology Division (ECY)		18,000	18,000	59,000	54,000
Total \$		36,000	36,000	59,000	54,000

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

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

NONE

Part V: New Rule Making Required

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

Department of Revenue Fiscal Note

Bill Number: 2144 S HB	Title: Beverage deposit return prg.	Agency: 140-Department of Revenue
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax		1,130,000	1,130,000	4,650,000	6,650,000
Workforce Education Investment Account-State 01 - Taxes 05 - Bus and Occup Tax		190,000	190,000	780,000	1,110,000
Total \$		1,320,000	1,320,000	5,430,000	7,760,000

Estimated Expenditures from:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.2	0.1		4.0
GF-STATE-State 001-1		20,600	20,600		789,600
Total \$		20,600	20,600		789,600

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: Rachelle Harris	Phone: 60-786-7137	Date: 01/22/2024
Agency Preparation: Sara del Moral	Phone: 60-534-1525	Date: 01/26/2024
Agency Approval: Valerie Torres	Phone: 60-534-1521	Date: 01/26/2024
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 01/28/2024

Request # 2144-2-1

Part II: Narrative Explanation

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

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

Note: This fiscal note reflects language in SHB 2144, 2024 Legislative Session.

COMPARISON OF THE SUBSTITUTE BILL WITH THE ORIGINAL:

The substitute bill changes the date when a distributor responsibility organization (DRO) must implement a bottle deposit program.

CURRENT LAW:

PRODUCER RESPONSIBILITY AND PRODUCT STEWARDSHIP PROGRAMS

Washington has established several product stewardship programs, which regulate end-of-life management of certain products, such as pharmaceuticals and paint.

Stewardship organizations collect, transport, and provide end-of-life management for products covered under each stewardship program. In most cases, producers of regulated products must participate in a stewardship organization and pay fees to support its activities.

BUSINESS AND OCCUPATION (B&O) TAX

The B&O tax is a gross receipts tax measured on the value of products, gross proceeds of sale, or gross income of each taxpayer.

The tax rate varies by classification. For services and other activities, it is:

- 1.50% for taxpayers with less than \$1 million in service/other taxable during the prior calendar year, and
- 1.75% for taxpayers with a greater amount of service/other taxable during the prior calendar year.

For retailing activities, the tax rate is 0.471%.

The B&O tax applies to businesses, nonprofits and other entities. A taxpayer may not deduct expenses.

LITTER TAX

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

The Department of Revenue (department) is not involved in a litter tax study at this time.

PROPOSAL:

BOTTLE DEPOSIT PROGRAM

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

The bill adds a deduction to the B&O tax for the refund value of qualifying beverage containers sold by retail businesses. To

qualify for the deduction, the refund value must be separately stated on a receipt, invoice, or similar billing document. The amount of the deduction claimed for a given period cannot exceed the refund value of beverage containers sold during that period.

The bill adds an exemption to the litter tax for the refund value of qualifying beverage containers if the charge is separately stated on an invoice.

DISTRIBUTOR RESPONSIBILITY FOR QUALIFYING BEVERAGE CONTAINERS

The Department of Ecology (Ecology) must oversee a distributor responsibility program for qualifying beverage containers. Under the program, bottle distributors must participate in a DRO.

Beginning October 1, 2025, or 120 days after Ecology approves a DRO's registration, each distributor must join a DRO.

The DRO must submit a deposit return system plan to Ecology that requires a minimum 60% recycling rate of all qualifying beverage containers by calendar year 2029.

For the first five years during which a DRO operates a deposit return system, the DRO must remit \$15,000,000 annually to the Recycling Revenue Augmentation Account established by this proposal.

DEFINITIONS

"Qualifying beverage container" means any separate, sealed glass, metal, or plastic bottle or can, except for a carton, foil pouch, drink box or metal container that requires a tool to be opened, that contains any beverage intended for human consumption, and in a quantity of greater than four ounces and less than or equal to one gallon, except for products with dairy milk as a first ingredient and infant formula.

"Deposit return system" means a qualifying beverage container redemption program that pays a per-unit refund value to consumers for qualifying beverage containers and collects and processes qualifying beverage containers.

"Distributor" is defined to include an entity that engages in the sale of beverages in qualifying beverage containers to a dealer or to an entity that sells beverages in qualifying beverage containers to consumers for consumption on-site, including any manufacturer or importer who engages in such sales to dealers or directly to consumers, and dealers who self-distribute their own brands.

A "distributor responsibility organization" (DRO) means an entity designated by a group of distributors to develop and carry out the activities required of distributors under this proposal.

LITTER TAX STUDY

The bill requires Ecology and the department to conduct a study of the impact of new requirements for the distributors of qualifying beverage containers. The study will examine the impact of the new requirements on litter rates for such containers. The study will also examine whether the state could improve the current litter tax administration, compliance, or incidence. Ecology will consult with the department as to whether the litter tax is meeting the legislative purposes.

Ecology will provide recommendations to the appropriate legislative committees by January 1, 2030.

The new tax preference performance provisions do not apply to either the B&O deduction or the litter tax exemption (see section 30 of the bill).

EFFECTIVE DATE:

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

II. B - Cash receipts Impact

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

ASSUMPTIONS

- The DRO collects fees from bottle distributors to cover all costs of plan implementation, including Ecology's implementation costs and other program costs.
- This estimate inflates projected DRO revenues from historical California values using the consumer price index for all urban consumers for the Seattle area.
- Per capita operating costs for the proposed program are similar to those observed for California's program.
- Only one DRO will operate during the earlier years of the program. This DRO will start collecting fees from distributors in November 2024. This DRO will:
 - Begin to require the collection of bottle deposits on May 1, 2028.
 - Implement the deposit return system on July 1, 2028.
- All retailers will separate the deposit from the retail sale amount. If a retailer states the charge for the deposit separately in the transaction and the separately stated charge equals the refund amount, then the deposit is exempt from retail sales tax. If the charge is not separately stated and not equal to the deposit amount, then the charge is retail sales taxable.
- Currently, tribes with compacts receive a share of certain B&O taxes (RCW 43.06.523). Under this bill the amount of revenue shared with tribes may decline.

DATA SOURCES:

- Bureau of Labor Statistics, CPI-U for Los Angeles-Long Beach-Anaheim, CA
- CalRecycle, annual reports
- Department of Ecology, Assumptions
- Economic and Revenue Forecast Council, November 2023 forecast
- Office of Financial Management, state population forecast.
- State of California, Historical Population and Housing Estimates

REVENUE ESTIMATES

This bill increases state revenues by an estimated \$1,320,000 in the seven months of impacted collections in fiscal year 2025, and by \$2,700 in fiscal year 2026, the first full year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2024 -	\$ 0
FY 2025 -	\$ 1,320
FY 2026 -	\$ 2,700
FY 2027 -	\$ 2,730
FY 2028 -	\$ 3,150
FY 2029 -	\$ 4,610

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

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

ASSUMPTIONS:

Request # 2144-2-1

- This legislation will affect 59,000 retailers of containers requiring the collection of a deposit and one organization registering as the producer responsibility organization.
- The litter tax study will take place in fiscal years 2029 and 2030.

FIRST YEAR COSTS:

The department will not incur costs in fiscal year 2024.

SECOND YEAR COSTS:

The department will incur total costs of \$20,600 in fiscal year 2025. These costs include:

Labor Costs – Time and effort equate to 0.19 FTE.

- Create special notice and update relevant information on the department’s website.
- Amend one administrative rule.

THIRD YEAR COSTS:

The department will not incur costs in fiscal year 2026.

FOURTH YEAR COSTS:

The department will not incur costs in fiscal year 2027.

FIFTH YEAR COSTS:

The department will incur total costs of \$396,500 in fiscal year 2028. These costs include:

Labor Costs - Time and effort equate to 3.6 FTEs.

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

Object Costs - \$36,600.

- Computer system changes, including contract programming.
- Print and mail documents, correspondence, and returns.
- Purchase of two additional agent seat licenses for the Telephone Information Center.

SIXTH YEAR COSTS:

The department will incur total costs of \$393,100 in fiscal year 2029. These costs include:

Labor Costs - Time and effort equate to 4.3 FTEs.

- Participate in the litter tax study, provide data, analyze data, report out, and review draft report.
- Respond to data requests and questions, compile statistics, and analyze data.
- Answer additional phone calls on tax questions and tax return preparation from businesses, individuals, and accountants.
- Process paper correspondence, respond to web messages, and conduct account examinations.
- Conduct additional administrative reviews of notices and assessments.

Object Costs - \$700.

- Training and travel.
- New software license.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.2	0.1		4.0
A-Salaries and Wages		13,000	13,000		452,800
B-Employee Benefits		4,300	4,300		149,300
C-Professional Service Contracts					26,400
E-Goods and Other Services		2,200	2,200		118,100
G-Travel					200
J-Capital Outlays		1,100	1,100		42,800
Total \$		\$20,600	\$20,600		\$789,600

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
EMS BAND 4	131,684		0.0	0.0		
EXCISE TAX EX 2	58,104					1.1
EXCISE TAX EX 3	64,092					0.6
IT B A-JOURNEY	91,968					0.2
IT SYS ADM-JOURNEY	96,552					0.1
MGMT ANALYST4	76,188		0.0	0.0		
TAX INFO SPEC 1	46,596					1.5
TAX INFO SPEC 2	50,088					0.3
TAX INFO SPEC 3	61,056					0.1
TAX POLICY SP 2	78,120		0.1	0.0		
TAX POLICY SP 3	88,416		0.1	0.0		0.2
TAX POLICY SP 4	95,184		0.0	0.0		
WMS BAND 2	98,456		0.0	0.0		
WMS BAND 3	111,992		0.0	0.0		
Total FTEs			0.2	0.1		4.0

III. C - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

Part V: New Rule Making Required

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

Should this legislation become law, the department will use the expedited process to amend WAC 458-20-243, titled: "Litter tax." Persons affected by this rulemaking would include beverage container producers and beverage retailers.

Individual State Agency Fiscal Note

Bill Number: 2144 S HB	Title: Beverage deposit return prg.	Agency: 461-Department of Ecology
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Deposit Return Organization Program Account-Non-Appropriated NEW-6				340,510	925,028
Total \$				340,510	925,028

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	3.6	1.8	3.8	2.4
Account					
Model Toxics Control Operating Account-State 23P-1	0	518,549	518,549	811,818	0
Deposit Return Organization Program Account-Non-Appropriated NEW-6	0	0	0	340,510	925,028
Total \$	0	518,549	518,549	1,152,328	925,028

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: Rachele Harris	Phone: 360-786-7137	Date: 01/22/2024
Agency Preparation: My-Hanh Mai	Phone: 360-742-6931	Date: 01/23/2024
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 01/23/2024
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/23/2024

Part II: Narrative Explanation

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

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

Compared to HB 2144, SHB 2144 has the following changes.

- Section 12 would require the Distributor Responsibility Organization (DRO) to prioritize five convenience factors when selecting drop-off sites.)
- Section 15 would require the DRO consultant to conduct an analysis of geographical differences in redemption rates in rural and underserved communities.
- Section 18 would require the DRO to report to Ecology how the unclaimed deposits are used.

These changes do not change the fiscal impact to Ecology.

Under current law, Chapter 70A.205 RCW, state, county, and city governments are required to provide for safe waste management, including waste reduction and source separation strategies for recycling of recovered materials and to process and dispose of remaining wastes in a manner that is environmentally safe and economically sound.

Local governments have the responsibility to provide access to recycling services for their residents, through curbside services and/or drop boxes. Department of Ecology (Ecology) provides technical assistance to local jurisdictions as they develop solid waste management plans that identify the materials considered recyclable (in the curbside bin or drop box) in their jurisdiction. Ecology also provides grant funding to support local government programs.

Under current law, Chapter 81.77 RCW, the Utilities and Transportation Commission (UTC) regulates solid waste collection companies that operate in unincorporated areas and in cities and towns that do not choose to contract for or provide their own collection services. Solid waste collection companies must obtain a certificate from the UTC to operate. The UTC reviews and approves collection rates charged by solid waste collection companies to these areas.

This bill would create a deposit return system for certain beverage containers, requiring a ten-cent refund be paid for beverage containers returned for redemption. The program would be managed by a Distributor Responsibility Organization (DRO), and overseen by Ecology, with administrative costs paid for by the DRO. The bill allows for independent distributor programs and small-scale reuse programs. The DRO plan would be required to meet drop-off convenience and recycling performance standards. This program would not change the local government nor UTC requirements described above, which would continue for the non-beverage container materials collected from residents. There would be no restriction on putting beverage containers in curbside bins or drop off locations as conducted currently; however, the redemption value would not be recovered by the consumer.

Section 4 would allow for a group of distributors representing the majority of beverages in qualifying beverage containers sold in or into Washington to form a distributor responsibility organization (DRO). An individual distributor would be allowed to independently fulfill the duties of a DRO.

Section 5 - Distributor Responsibility Organization Duties

By October 1, 2025, or 120 days after DRO registers with Ecology (whichever is later), distributors of qualifying beverages would be required to join a DRO, or independently fulfill the duties of a DRO. Any distributor that operates in violation of this requirement would be subject to penalties and damages as described in section 7.

Section 6 - Initial Reporting Requirements

Until the DRO begins to submit annual reports, the DRO would be required to submit data about its members, brands, and the number of containers sold. The DRO would be able to request this data be kept confidential.

Section 7 - Calculation and payment of fees to the department and damages owed to a DRO

Ecology would be required to implement, administer, and enforce the chapter, and would be provided with rulemaking authority to do so.

By April 1st of each year after the DRO's registration has been approved by Ecology: Ecology would be required to prepare a workload analysis that identifies the projected annual costs of the agency for the next fiscal year to implement, administer, and enforce the chapter, including rulemaking, determine a total annual fee payment to be paid by the DRO to cover, but not exceed, the agency's costs of implementing, administering, and enforcing this chapter, and send a notice to the DRO of the fee amounts due.

By June 30th of each year, and annually thereafter, the DRO would be required to submit an annual payment to fund the agency's costs, as identified through the workload analysis, for the coming fiscal year.

Distributors independently carrying out the duties of a DRO would be required to pay a fee to Ecology equal to 10 cents for each qualifying beverage container until the DRO begins operations of the deposit return system. After a DRO begins operating a deposit return system (DRS), Ecology would be authorized to impose a civil penalty on any distributor who fails to participate in a DRO.

Fees paid by the distributors not participating in a DRO would be deposited in the Return Organization Program Account create in section 24.

Penalties paid by the distributors not participating in a DRO would be deposited in the Recycling Enhancement Account create in RCW 70A.245.100.

Section 8 would prohibit the DRO to use unclaimed refunds for distributors profit or on legislative or political advocacy.

Section 9 - Reuse and recycling performance, requirements, verification, and performance penalties

The bill would set performance requirements for recycling and reuse rates for qualifying beverage containers of 60 percent redeemed for reuse or recycling by 2029 and 80 percent redeemed for reuse or recycling by 2032. The bill specifies a reusable packaging rate of one percent by 2032. Ecology would be authorized to review specific records to determine compliance with the recycling performance rates. The DRO would calculate penalties for not meeting the recycling rates, or Ecology would require the DRO to establish additional drop-off sites. Penalties for a DRO's failure to achieve performance requirements would be deposited in the Model Toxics Control Operating Account.

Section 10 – Deposit Return System Plan submittal, approval process, and deployment

By July 2027 or 180 days after rule adoption, the DRO would be required to submit a plan to Ecology for approval. Once approved, the DRO would be required to start the deposit return system by July 2028 or one year after rule adoption.

Section 11 – Refund value, labeling or refund value, and collection of refund value

The DRS would put a ten-cent refund value on all qualifying beverage containers, which would be required to be clearly marked on the container. Sellers of beverages would be authorized to charge a deposit at the time of sale. The DRO would be authorized to begin collecting deposits 60 days prior to the start of the DRS to offset refund costs.

Section 12 – Bulk drop-off program and drop-off network for collecting qualifying beverage containers

The DRO would be required to provide geographically dispersed convenient bulk drop-off sites located convenient distances from a dealer (beverage retailers). Convenience would be determined in part with input from the consumer convenience advisory council created in section 14. All dealers over 5,000 Sq ft and with unit sales greater than 100,000 annually would be required to install a self-serve kiosk to print redemption vouchers, provided free from the DRO. The DRO would be required to reimburse the dealers for the value of the valid vouchers redeemed by customers, store credit can also be offered. The DRO would be directed to prioritize convenience factors.

Section 13 – Drop-off capacity formula and network growth and realignment

Every five years the DRO would use the drop-off capacity formula to see if adjustments need to be made on locations, and/or the number of sites.

Section 14 – Consumer Convenience Advisory Council

DRO would establish the consumer convenience advisory council by January 1, 2026. It would include nine members that meet at least twice a year to help identify convenient drop off locations.

Section 15 - Consumer convenience assessment and updated plan submissions

In the fourth and ninth year after program implementation, the DRO, in consultation with Ecology and the Advisory Council, would contract with a third-party consultant to identify any barriers to achieving the redemption rate performance requirements in section 9 of this act. The consultant would provide an analysis of potential geographic differences in the redemption rates in rural communities and underserved areas. If the consultant finds the number of drop-off locations are insufficient, Ecology would be authorized to require the DRO to update the plan.

Section 18 - Annual reporting on activities

After the first full year the DRO would submit an annual report on July 1st and every year thereafter with detailed information on the numbers of containers supplied in the state and returned through the program and how the unclaimed funds were used. The report would also include third-party audited financial information.

Section 20 – Education and Outreach

Each DRO plan would be required to include education and outreach activities that effectively reach diverse residents, are accessible, clear, and support the achievement of the performance rates. A DRO would coordinate with government entities and have a consistent messaging and statewide program.

Section 21 – Small-Scale Refund Program

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

Section 22 – Recycling revenue augmentation funding program

The DRO would remit \$15 million per year for the first five years of implementation, to the Department of Commerce's (Commerce) Recycling Revenue Augmentation Fund. Commerce would manage and distribute these funds.

Section 24 – DROP Account

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

Section 26 – Civil Penalties for DRO

Ecology would be authorized to impose a civil penalty up to \$200 to \$500 per violation per day for a DRO violation of the plan or performance requirements.

Section 27 – Contingency Plan

If a DRO ceases to exist and operate the deposit return system in Washington, the system would be discontinued.

Section 28 would add a new section to chapter 82.04 RCW to allow a deduction from the B&O tax for the refund value.

Section 29 would amend RCW 82.19.050 and 2005 c 289 s 1 allowing the litter tax to be excluded from the refund value from litter taxation.

Section 34 would amend RCW 70A.245.100 and 2021 c 313 s 13 to allow the recycling enhancement account to direct

penalties from the DRS program, for use to provide grants for local governments for supporting solid waste.

Section 35 would require Ecology and Department of Revenue (DOR), in consultation with the DRO to study the impacts of DRO on litter rates of covered products in order to make changes to the litter tax.

II. B - Cash receipts Impact

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

The cash receipts impact to Ecology under this bill is estimated to be greater than \$50,000 in Fiscal Year (FY) 2027 for revenue under section 7.

Deposit Return Organization Program Account (DROP Account)

Section 7 would require Ecology to implement, administer, and enforce this chapter. Ecology assumes one DRO would be established and registered with by October 2025, and that no individual distributors would register as individual DROs as they would be required to independently fulfill all the requirements of the chapter.

By April 1, 2026, and annually thereafter, Ecology would prepare a workload analysis to identify annual costs in the next fiscal year, including rule making, that the DRO would be required to fund.

By June 30, 2026, the DRO would be required to pay Ecology the annual fee for the coming fiscal year. In lieu of the annual DRO fee payment individual DROs would be allowed to pay a registration fee equal to 10 cents per qualifying beverage container, until the DRO begins operation a DRS. Fees would be deposited in the DROP Account created in section 24.

Ecology assumes one DRO would register to operate a deposit return system on October 1, 2025. The first fee receipt collections would be due June 30, 2026 (for FY 2027). Ecology assumes one DRO would be subject to the annual payment to support implementation of the DRS program. If more than one DRO were to implement the program, the annual fees would be allocated among the DRO based on each DRO's proportionate share of qualifying beverage containers managed by weight.

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

Estimated DROP Account Revenue

FY 2027: \$340,510

FY 2028: \$340,510

FY 2029: \$584,518

Penalties

Section 7 would require Ecology to impose civil penalties to distributors who fail to comply with the requirements of the chapter and do not comply following formal notice, of at least 15 cents per qualifying beverage container, or \$10,000, whichever is greater. Any penalty collections would be deposited in the DROP Account.

Penalties paid by the distributors not participating in a DRO would be deposited in the Recycling Enhancement Account create in RCW 70A.245.100. Penalties for a DRO's failure to achieve performance requirements would be deposited in the Model Toxics Control Operating Account.

Section 26 would provide authority for Ecology to assess penalties of up to \$200 per violation per day and no more than \$500 per violation per day to a distributor responsibility organization that fails to comply with requirements after formal

notification.

Ecology would work with the DRO and distributors, when applicable, to bring them into compliance; Penalties are assumed to be limited, but unknown, and therefore are not estimated in this fiscal note.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

The expenditure impact to Ecology under this bill is estimated to be greater than \$50,000 in Fiscal Year (FY) 2025 and ongoing to implement the requirements of sections 5, 7, 9, 10, 14, 15, 18, 21, 26, 27, and 35.

DEPOSIT RETURN SYSTEM PROGRAM OVERSIGHT (sections 5, 7, 9, 10, 14, 15, 18, 21, 26, and 27)

Ecology would be required to implement, administer, and enforce this chapter. Ecology assumes a distributor responsibility organization (DRO) to be established and register with Ecology by October 1, 2025. Distributors of qualifying beverage containers would be required to join the DRO by February 1, 2026 (120 days after DRO registration) or register with Ecology as individual distributor carrying out the responsibilities of a DRO. The DRO would establish, fund, and operate a statewide bag-drop return system where residents would receive a refund when they deliver qualifying beverage containers to the drop off sites.

This bill would allow for independent distributors to operate their own program that meets all the requirements of this chapter. Independent distributors would be required to pay an annual Ecology fee (or an alternative 10 cent per beverage container fee), submit plans and annual reports to Ecology. Due to the requirement that any independent distributor must implement all requirements of this chapter, Ecology assumes all distributors would join the DRO.

This bill would allow for small-scale refund programs to be established by beverage manufacturers who are also distributors of no more than 10,000 beverages per year in reusable containers (Section 21). A small-scale refund program manufacturer would be required to submit a plan and annual report to Ecology.

Ecology assumes small-scale refund programs would be established. Ecology would work directly with these small manufacturers providing technical assistance to get the required registration information submitted. Due to the size of these small-scale programs, Ecology assumes their plans and annual reports would be streamlined to ensure quick and efficient compliance. Small-scale refund program operations would be assumed to come into compliance by the time distributors would be required to join the DRO or would independently fulfill the duties required of a DRO in October 2025, and require minimal ongoing technical assistance.

By October 2025, Ecology assumes one DRO would be established and registered with Ecology representing the majority of distributors in Washington. Based on the deposit return system (DRS) program in Oregon, Ecology assumes up to five individual distributors would register as individual DROs and independently fulfill the requirements of the chapter. Based on Oregon's program, Ecology assumes up to ten manufacturers would establish small-scale refund programs, examples would be small operations like a brewery, winery, or other niche operation. Ecology assumes these manufacturers would be identified during the first year after bill passage, as beverage distributors would be required to join the DRO.

By January 15, 2026, and annually until the DRO submits annual reports, the DRO would be required to identify and provide information on their member distributors to Ecology. Small-scale program operators would be required to submit annual reports.

By January 1, 2026, the DRO, in consultation with Ecology, would establish a Consumer Convenience Advisory Council. Ecology assumes we would attend all council meetings to support performing our oversight duties. In 2033 and 2037, the DRO, in consultation with Ecology and the advisory council, would hire a consultant to conduct a consumer convenience assessment (four and nine years after program implementation).

By February 1, 2026, Ecology assumes all Washington beverage distributors would be required to join this DRO, except for those operating a small-scale reuse program who would register separately with Ecology. Based on the beverage container DRS operating in Oregon, Ecology assumes up to 500 distributors would be required to join the DRO. Ecology assumes 20 percent of these distributors would require ongoing technical assistance to ensure compliance. Small-scale refund program operators would also register with Ecology by February 1, 2026. Ecology assumes 10 small-scale programs would register.

By April 1, 2026, and annually thereafter, Ecology would prepare a workload analysis to identify annual costs in the next fiscal year, including rule making, that the DRO would be required to fund. The workload analysis would identify the equitable costs the small-scale reuse programs would be required to pay Ecology.

By June 30, 2026, the DRO and small scale program operators would be required to pay Ecology their equitable annual fee for the coming fiscal year.

By July 2027, or six months after rule adoption (rule adoption assumed to occur by March 2026), the DRO and small-scale reuse program operators would submit their plans to Ecology. Ecology would evaluate each plan and, within 60 days, determine whether to approve the plan, providing a detailed explanation to the DRO for any disapproval. Once approved, the DRO would be required to implement the plan by July 2028 or one year after rule adoption, whichever is later. The DRO would be required to submit plan updates to Ecology in the fifth and tenth full year of operation, assumed to be 2034 and July 2038. Plan review and approval would also occur for small scale reuse programs.

By July 1, 2029, and annually thereafter, the DRO would submit an annual report to Ecology providing a summary of the DRO membership and information about their brands and beverages as well as details regarding the DRS operation, including the use of unclaimed refunds. Annual report submittal would also be required for small scale reuse programs.

Ecology estimates 0.85 FTE EP-4 would be required in FY 2025 and 1.30 FTE in FY 2026 and ongoing. Program duties include providing technical assistance to small-scale program operators and distributors, and DRO regarding the requirements of this bill, including notifying noncompliant distributors of their noncompliant status and conducting enforcement actions when necessary to ensure distributor compliance. Ecology assumes technical assistance to distributors would be ongoing, higher in first three years and would reduce in the following years. Ecology would provide technical assistance to local jurisdictions regarding the DRS and impacts on local planning and recycling services, and answering questions from residents, businesses, and local agency staff and elected officials regarding the program; reviewing and approving plans, and plan updates including the drop-off capacity formula used to meet the redemption rate performance targets, proposed drop off site updates (every 5 years); reviewing annual reports and DRO records to determine the accuracy of the reported redemption rate including requesting audits of DRO to confirm the accuracy of the redemption rate; identify priority areas for additional drop-off access to be provided by the DRO; consult with the DRO to establish the Consumer Convenience Advisory Council by January 1, 2026, approval of additional members; participate in the semi-annual meetings of the Advisory Council; consult with the DRO on the consultant hired by the DRO to conduct a consumer convenience assessment in 2033 and 2037; and review of any recommendations from the customer convenience assessments, including the analysis of potential geographic differences in the redemption rates in rural communities and underserved areas. The DRO plans submitted to Ecology in 2034 and 2038 would address consumer convenience recommendations in the consultant report.

Ecology estimates 0.50 FTE Environmental Specialist 3 (ES-3) would be required in FY 2025 and ongoing to: provide assistance to residents and local governments; register the DRO; collect and manage submitted information; inform DRO, and small scale program operators of their fee payments by April 2026, and annually thereafter; invoice and collect payments due June 2026, and annually thereafter; consider requests from DRO or distributors to hold data confidential; review of annual reports starting in January 2029, review data to ensure the program meets the recycling and reuse rates; provide enforcement support to the EP-4; and annually update information posted on the agency's website.

Ecology estimates 0.10 FTE Budget Analyst 4 (BA-4) would be required in FY 2025 and 0.05 FTE in FY 2026 and ongoing

to develop and update the annual workload model and make necessary adjustments to the annual fee payment consistent with section 7(2).

Ecology estimates 0.10 FTE Communications Consultant 3 (CC-3) would be required in FY 2025 to create a public website and 0.05 FTE in FY 2026 ongoing to update the website. The website would provide information about DRO, member distributors, and qualifying beverage containers.

AAG Support – DRS Program

Ecology's Assistant Attorney General (AAG) has estimated that the following staff time in the Office of the Attorney General (ATG) would be needed to provide legal support for rulemaking, and advice and representation in support of Ecology's enforcement to ensure distributor participation (i.e., registration and annual fee payments starting June 2025, determining responsible parties starting January 2026, enforcement letters, penalties) in FY 2025 through FY 2029. In addition, ATG advice and representation would be needed in support of Ecology's enforcement of program implementation.

Estimated workload and costs are 0.06 FTE AAG and 0.03 FTE Paralegal (PL) for a total of \$18,000 in FY 2025, 0.11 FTE AAG and 0.06 FTE Paralegal (PL) for a total of \$32,000 in FY 2026, and 0.09 FTE AAG and 0.04 FTE PL for a total of \$27,000 each year beginning in FY 2027 and ongoing. Costs are included in Object E.

Section 7 would authorize Ecology to adopt rules to implement, administer, and enforce the chapter.

Ecology assumes rulemaking would be required for the DRS program. It would be technical with high public interest and require extensive public engagement. Ecology assumes we would create a rule advisory committee to develop draft language and consult with the advisory council (created in Section 14) throughout the rulemaking process. Based on the Chapter 70A.245 RCW rule, we assume 4-6 meetings with the rule advisory committee. Ecology would conduct targeted outreach and consult with overburdened communities and vulnerable populations across the state throughout the rulemaking process. Ecology assumes two public meetings when developing draft rule language, and two public hearings for the proposed rule language. Based on the requirements in this bill and experience with extended producer responsibility programs and other related rulemakings, Ecology assumes this initial rulemaking would take 18 months to complete, beginning October 2024 (FY 2025) and completed by March 2026 (FY 2026). Rule development for this program would include: clarifying definitions; identifying beverage containers exempted from the DRS, establishing an equitable formula for determining each DRO, independent distributor, and small scale program operator's share of the annual payment to cover Ecology's costs; establishing plan content requirements necessary to fulfill the intent of the bill; establishing elements to be included as annual reporting requirements necessary to determine the program's compliance; establishing third-party audit and verification requirements; establishing processes for plan approvals; and any other requirements.

The following would be required:

A rule coordinator to oversee the rulemaking process to comply with the Administrative Procedures Act; oversee the rule development and communication plan; review and file the CR-101; coordinate and conduct public meetings; file the CR-102 and hold public hearings with webinar access; work with an economist on economic impact analysis; work with technical staff to finalize rule language; and file the CR-103 for adoption. This would require 0.09 FTE RA-3 in FY 2025 and 0.11 FTE RA-3 in FY 2026 to complete a 1.75-year moderately complex rule.

A rulemaking lead would oversee rule timeline management, lead rule development, manage stakeholder engagement, and conduct other tasks as necessary. This would require 0.25 FTE EP-4 in FY 2025 and 0.5 FTE EP-4 FY 2026.

Subject matter experts would advise on criteria for: establishing qualifying and exempt beverage containers, annual reporting requirements and processes for plan approvals; developing protocols for third party verification; and providing expert advice on deposit return programs in the US and internationally. This would require 0.25 FTE EP-5 in FY 2025 and 0.5 FTE EP-5 FY 2026.

Technical support staff would collect data, support analysis of potential policy outcomes, provide support to the EP-4 rulemaking lead and EP-5, and subject matter experts, and coordinate with communications staff to provide technical support for public outreach. This includes any needs for regional support. This would require a 0.25 FTE ES-4 in FY 2025 and 0.5 FTE ES-4 in FY 2026.

Based on previous rulemaking experience and the magnitude of interested parties and affected stakeholders, communications and outreach support is included to ensure robust public engagement in the rulemaking process. The following positions would support public engagement:

A communications lead would coordinate an outreach strategy and media engagement. This would require a CC-5 0.08 FTE in FY 2025 and 0.1 FTE in FY 2026.

Due to the impact of the DRO program to all state residents, Ecology would conduct targeted outreach and consult with overburdened communities and vulnerable populations across the state throughout the rulemaking process. This would require an EP-3 0.2 FTE in FY 2025 and FY 2026.

An outreach coordinator would organize rule advisory committee meetings and public meetings, prepare informational materials, assist with rule discussion at advisory council meetings, and respond to stakeholder questions throughout the rulemaking process. This would require a COEES-3 0.38 FTE in FY 2025 and 0.5 FTE in FY 2026.

The following positions would complete an economic and regulatory analysis of the rule and subsequent updates as required by law: EA-3 0.25 FTE in FY 2026; and RA-2 0.1 FTE in FY 2026.

Two public meetings would be held in FY 2025 and two public hearings would be held in FY 2026. Cost estimates include facility rental costs, estimated at \$1,000 per meeting for a total of \$2,000 each year in FY 2025 and FY 2026 in Object E. Based on the complexity of the rule and prior experience with other complex rulemakings, Ecology assumes a contract with a professional facilitator would be required for these public meetings to ensure that all stakeholders have an equal voice. Ecology estimates the facilitator cost would be \$3,000 per meeting or hearing. Cost estimates include professional services contract costs for facilitation, estimated at \$6,000 in FY 2025 and \$6,000 in FY 2026 in Object C.

Ecology assumes this rulemaking would be moderately complex with some public interest (level 2 rule) and require 18 months to complete.

LITTER TAX STUDY (Section 35)

The bill would require Ecology to contract for a study of the impacts of the DRS program on litter rates in the state. The study would identify improvements to the structure of the litter tax (under chapter 82.19 RCW) including administration, compliance, and distribution of the tax and application of the tax to certain products. Ecology, in consultation with the Department of Revenue, would provide recommendations to the legislature on the applicability of the litter tax on EPR covered products and DRS qualifying beverage containers and improvements to the structure of the litter tax. The recommendations would be delivered to the appropriate committees of the legislature by January 2030. Ecology assumes a consultant would be hired by July 2029 (FY 2030) to conduct the study. The study would be completed by August 2030 (FY 2030). Ecology and Revenue would provide recommendations to the legislature by January 2030.

This work would require 0.25 FTE EP-4 in FY 2029 and FY 2030. Ecology would hire and oversee the consultant conducting the litter tax study and work with the DRO, PRO, and advisory council on the draft study review and comment. This position would consult with the Department of Revenue regarding the litter tax recommendations to be submitted to the legislature. Ecology assumes this position would serve as the agency coordinator on the recommendations report to the legislature.

This work would require 0.25 FTE EP-5 in FY 2030 to provide policy review of the consultant's study report, advise the project lead, and coordinate with Ecology's government relations on the recommendations. This position would provide policy review of the contracted study and provide assistance in consultation with the Department of Revenue. Ecology assumes this position would advise the lead coordinator on legislative report requirements. In addition to the efforts identified above, preparation of the report for submittal to the legislature would require staffing time for communications review for content clarity and key messages, and accessibility and plain talk review.

Ecology estimates, 0.05 FTE CC-5, 0.05 FTE CC-2, and 0.05 FTE RA-3 in FY 2030. The cost of the study would be more complicated than the 2022 consumer packaging study conducted under Senate Bill 5693 Section 58 due to the complexity and scope of the study.

Ecology estimates \$200,000 would be required for the litter tax study in FY 2029 and \$100,000 in FY 2030, shown in Object C.

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

DRS Program Oversight is estimated to require:

FY 2025: \$518,549 and 3.6 FTEs
FY 2026: \$811,818 and 5.4 FTEs
FY 2027: \$340,510 and 2.2 FTEs
FY 2028: \$340,510 and 2.2 FTEs
FY 2029: \$340,510 and 2.2 FTEs

Litter Tax Study is estimated to require:

FY 2029: \$244,008 and 0.3 FTEs

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

FY 2025: \$518,549 and 3.6 FTEs
FY 2026: \$811,818 and 5.4 FTEs
FY 2027: \$340,510 and 2.2 FTEs
FY 2028: \$340,510 and 2.2 FTEs
FY 2029: \$584,518 and 2.5 FTEs

Notes on costs by object:

Salary estimates are current biennium actual rates at Step L.

Benefits are the agency average of 34.1% of salaries.

Professional Services includes costs for contracts to support the litter tax study, estimated to be \$200,000 in FY 2029. Object C also includes cost estimates for facilitation for rulemaking, estimated to be \$6,000 each year in FY 2025 and FY 2026.

Goods and Services are the agency average of \$6,048 per direct program FTE and includes estimated AGO costs of \$18,000 in FY 2025, \$32,000 in FY 2026, and \$27,000 each year in FY 2027 and ongoing. Object E also includes rulemaking facilities costs of \$2,000 each year in FY 2025 and FY 2026.

Travel is the agency average of \$2,205 per direct program FTE.

Equipment is the agency average of \$1,286 per direct program FTE.

Agency Administrative Overhead is calculated at the federally approved agency indirect rate of 29.8% 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	0	518,549	518,549	811,818	0
NEW-6	Deposit Return Organization Program Account	Non-Appropriated	0	0	0	340,510	925,028
Total \$			0	518,549	518,549	1,152,328	925,028

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		3.6	1.8	3.8	2.4
A-Salaries and Wages		266,257	266,257	587,576	363,315
B-Employee Benefits		90,793	90,793	200,364	123,892
C-Professional Service Contracts		6,000	6,000	6,000	200,000
E-Goods and Other Services		38,447	38,447	100,673	78,492
G-Travel		6,725	6,725	14,469	8,931
J-Capital Outlays		3,925	3,925	8,436	5,208
9-Agency Administrative Overhead		106,402	106,402	234,810	145,190
Total \$	0	518,549	518,549	1,152,328	925,028

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
BUDGET ANALYST 4	91,073		0.1	0.1	0.1	0.1
COM OUTRCH & ENV ED SP 3	67,717		0.4	0.2	0.3	
COMM CONSULTANT 3	71,149		0.1	0.1	0.1	0.1
COMM CONSULTANT 5	93,349		0.1	0.0	0.1	
ECONOMIC ANALYST 3	95,627				0.1	
ENVIRONMENTAL PLANNER 3	86,716		0.2	0.1	0.1	
ENVIRONMENTAL PLANNER 4	95,650		1.2	0.6	1.6	1.5
ENVIRONMENTAL PLANNER 5	105,612		0.3	0.1	0.3	
ENVIRONMENTAL SPEC 3	74,489		0.5	0.3	0.5	0.5
ENVIRONMENTAL SPEC 4	86,324		0.3	0.1	0.3	
FISCAL ANALYST 2			0.3	0.2	0.3	0.2
IT APP DEV-JOURNEY			0.2	0.1	0.2	0.1
REGULATORY ANALYST 2	88,798				0.1	
REGULATORY ANALYST 3	100,521		0.1	0.1	0.1	
Total FTEs			3.6	1.8	3.8	2.4

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 7 (1) would authorize Ecology to adopt rules to implement, administer and enforce this chapter. Ecology assumes rulemaking and would begin in October 2024 and be completed in March 2026 (in FY 2026) prior to receipt of DRO payment of Ecology costs (for FY 2027).

Individual State Agency Fiscal Note

Bill Number: 2144 S HB	Title: Beverage deposit return prg.	Agency: 468-Environmental and Land Use Hearings Office
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.0	0.0	0.4	0.5
Account					
General Fund-State 001-1	0	0	0	122,554	159,682
Total \$	0	0	0	122,554	159,682

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: Rachele Harris	Phone: 360-786-7137	Date: 01/22/2024
Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 01/25/2024
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 01/25/2024
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/30/2024

Part II: Narrative Explanation

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

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

No Changes from Previous Version

This act intends greater reduce/reuse/recycling of plastic packaging in the state. It establishes a program for awarding a refund to customers who return a recyclable beverage container. Distributor responsibility organizations must create/administer a deposit return system.

Sec. 7(6) – Gives the Pollution Control Hearings Board (PCHB) review authority of any penalty issued by Ecology under Sec. 7 to distributors of beverage containers for failure to participate in a distributor responsibility organization (DRO) or conduct the DRO operations independently (Sec. 5).

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.

ELUHO estimates 6 low complexity PCHB appeals per year resulting from this bill beginning in January 2026, ongoing.

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 6 appeals in Jan 2026. This estimate is based on a current analysis of AAJ work.

150 hours/appeal x 6 appeals = 900 AAJ hours in Jan 2026, ongoing.

Assume New AAJ FTEs: The PCHB will need approximately 0.5 AAJ FTE in Jan 2026, ongoing. The AAJ will have knowledge of environmental law to assist with these new cases. RCW 43.21B.005(2) authorizes the ELUHO director to appoint such AAJs to assist the PCHB. The 0.5 AAJ FTE will not serve as a member of the Boards, but will preside over cases, mediate cases, conduct legal research and writing, draft Board materials, and perform other legal duties to assist the Board.

Beginning in FY25 an AAJ will make \$117,840 per year, plus related benefits estimated at \$34,945 per year, at projected benefits rates. The agency needs 0.5 FTE AAJs in Jan 26, so the salary would be \$58,920, per FY, ongoing. Related benefits would total \$17,472, per FY, ongoing.

Goods and services for the total 0.5 FTE are estimated at \$2,720 per year, in Jan 2026, ongoing. Goods and services include communications, payroll processing, training, and other staff costs. Estimates include some travel at the low cost per diem rates totaling \$729 per year, ongoing. Also included is one time equipment costs for furniture and computers totaling \$2,793 in Jan 2026.

Assume capital budget impact: Currently, ELUHO leases space on the top floor of the State Parks building, Parsons Plaza, with lease expiring in FY26. We assume the ELUHO office will move to a state-owned facility and office space will be

needed for the additional 0.5 AAJ FTE.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	0	0	0	122,554	159,682
Total \$			0	0	0	122,554	159,682

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years				0.4	0.5
A-Salaries and Wages				88,380	117,840
B-Employee Benefits				26,208	34,944
C-Professional Service Contracts					
E-Goods and Other Services				4,080	5,440
G-Travel				1,093	1,458
J-Capital Outlays				2,793	
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	0	0	122,554	159,682

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	117,840				0.4	0.5
Total FTEs					0.4	0.5

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

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: 2144 S HB

Title: Beverage deposit return prg.

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

Legislation Impacts:

- Cities: revenue decrease from sale of residential recyclables, operational and administrative cost impacts
- Counties: revenue decrease from sale of residential recyclables, operational and administrative cost impacts, decrease in landfill tip fees
- Special Districts:
- Specific jurisdictions only:
- Variance occurs due to:

Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time: change in landfill usage, changes in service levels or service agreements, which jurisdictions would participate on the advisory council

Estimated revenue impacts to:

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

Estimated expenditure impacts to:

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

Part III: Preparation and Approval

Fiscal Note Analyst: Tammi Alexander	Phone: 360-725-5038	Date: 01/29/2024
Leg. Committee Contact: Rachelle Harris	Phone: 360-786-7137	Date: 01/22/2024
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 01/29/2024
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 01/30/2024

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:

- specifies that entities that sell to entities that sell beverages in qualifying beverage containers to consumers for consumption on site qualify as "distributors" that participate in a distributor responsibility organization (DRO) that implements a deposit return system
- provides explicit authorization for distributors, retail establishments, and other entities engaging in the sale of beverages in qualifying beverage containers to charge a deposit at the time of sale
- directs the DRO to prioritize, rather than to consider, five specified convenience factors, such as access in rural counties and small cities, when identifying locations necessary for the DRO to meet its performance targets
- requires the consumer convenience assessment that the DRO must arrange to be carried out in years four and nine of program implementation to include an analysis of any potential geographic differences in the redemption rate in rural communities and underserved areas of Washington
- requires the DRO's annual report to the Department of Ecology to identify how funds from unclaimed refunds were used

SUMMARY OF CURRENT BILL:

This bill would require distributors representing the majority of beverages in qualifying beverage containers (QBCs) sold in or into Washington must form a DRO to operate a deposit return system. To be approved as a DRO, the distributors must register with the Department of Ecology

(Ecology) and demonstrate that their membership represents the majority of beverages in QBCs sold or made available in Washington. The bill outlines the requirements of the DRO and the requirements to implement a deposit return system.

For the first five years of deposit return system operation, a DRO must remit \$15 million by December 31 of each year to the Department of Commerce for a recycling revenue augmentation funding program. If the first year of DRO system operation begins after January 1, the payment amount must be prorated. The Department of Commerce must use these funds to accept and make payments for annual requests from local governments or operators of curbside or drop-off recycling programs to offset revenue losses from scrap material being diverted to the deposit return system.

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:

The changes in the substitute version do not create any new fiscal impacts to local governments.

EXPENDITURE IMPACTS OF CURRENT BILL:

The bill specifies that local government representation on the consumer convenience advisory council must include two representatives of a city association, or individual city government, with one representing a city with a population over 200,000 people; and two representatives of a county association, or individual county government, with one representing an urban county and one representing a rural county. It is unknown which local governments would be chosen to participate on the advisory council or the level of participation required. There would be staff time and travel related costs for those participating.

C. SUMMARY OF REVENUE IMPACTS

Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.

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

The changes in the substitute version do not create any new fiscal impacts to local governments.

REVENUE IMPACTS OF CURRENT BILL:

The beverage deposit return program created by this bill would have an indeterminate impact on local government revenue. Beverage containers made of materials such as aluminum and PET are high value materials in the recycling stream. Revenue from beverage containers is used to offset costs for local government recycling programs. This revenue loss cannot be estimated at this time. This loss can be recovered through an annual request to the Department of Commerce for the first five years as outlined in the bill.

The intent of this program is to increase recycling and reduce waste going to the landfills. Increased recycling will cause a loss of revenue for counties for the decrease in landfill usage and the landfill tip fees collected, but those amounts cannot be estimated.

SOURCES:

Association of Washington Cities

Department of Revenue fiscal note, SHB 2144 (2024)

House Bill Analysis, HB 2144, Environment and Energy Committee (1/9/2024)

House Bill Report, HB 2144, Environment and Energy Committee (1/18/2024)

Washington State Association of Counties



Multiple Agency Ten-Year Analysis Summary

Bill Number 2144 S HB	Title Beverage deposit return prg.
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This ten-year analysis is limited to the estimated cash receipts associated with the proposed tax or fee increases.

Estimated Cash Receipts

	Fiscal Year 2024	Fiscal Year 2025	Fiscal Year 2026	Fiscal Year 2027	Fiscal Year 2028	Fiscal Year 2029	Fiscal Year 2030	Fiscal Year 2031	Fiscal Year 2032	Fiscal Year 2033	2024-33 TOTAL
Office of State Treasurer	0	0	0	0	0	0	0	0	0	0	0
Office of Attorney General	0	0	0	0	0	0	0	0	0	0	0
Department of Revenue	0	1,320,000	2,700,000	2,730,000	3,150,000	4,610,000	5,720,000	5,910,000	6,090,000	6,250,000	38,480,000
Department of Ecology	0	0	0	340,510	340,510	584,518	556,769	340,510	340,510	340,510	2,843,837
Environmental and Land Use Hearings Office	0	0	0	0	0	0	0	0	0	0	0
Total	0	1,320,000	2,700,000	3,070,510	3,490,510	5,194,518	6,276,769	6,250,510	6,430,510	6,590,510	41,323,837



Ten-Year Analysis

Bill Number 2144 S HB	Title Beverage deposit return prg.	Agency 090 Office of State Treasurer
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

No Cash Receipts **Partially Indeterminate Cash Receipts** **Indeterminate Cash Receipts**

Name of Tax or Fee	Acct Code												
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Agency Preparation: Dan Mason	Phone: (360) 902-8990	Date: 1/23/2024 12:48:43 pm
Agency Approval: Dan Mason	Phone: (360) 902-8990	Date: 1/23/2024 12:48:43 pm
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 2144 S HB	Title Beverage deposit return prg.	Agency 100 Office of Attorney General
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

No Cash Receipts **Partially Indeterminate Cash Receipts** **Indeterminate Cash Receipts**

Name of Tax or Fee	Acct Code												
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Agency Preparation: Dan Jensen	Phone: 360-664-9429	Date: 1/25/2024 4:16:30 pm
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 1/25/2024 4:16:30 pm
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 2144 S HB	Title Beverage deposit return prg.	Agency 140 Department of Revenue
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

No Cash Receipts

 Partially Indeterminate Cash Receipts

 Indeterminate Cash Receipts

Estimated Cash Receipts

Name of Tax or Fee	Acct Code	Fiscal Year 2024	Fiscal Year 2025	Fiscal Year 2026	Fiscal Year 2027	Fiscal Year 2028	Fiscal Year 2029	Fiscal Year 2030	Fiscal Year 2031	Fiscal Year 2032	Fiscal Year 2033	2024-33 TOTAL
Business and occupation tax	001		1,130,000	2,310,000	2,340,000	2,700,000	3,950,000	4,900,000	5,060,000	5,220,000	5,360,000	32,970,000
Business and occupation tax	24J		190,000	390,000	390,000	450,000	660,000	820,000	850,000	870,000	890,000	5,510,000
Total			1,320,000	2,700,000	2,730,000	3,150,000	4,610,000	5,720,000	5,910,000	6,090,000	6,250,000	38,480,000
Biennial Totals			1,320,000	5,430,000	7,760,000	11,630,000	12,340,000	38,480,000				

Narrative Explanation (Required for Indeterminate Cash Receipts)

Note: This fiscal note reflects language in SHB 2144, 2024 Legislative Session.

COMPARISON OF THE SUBSTITUTE BILL WITH THE ORIGINAL:

The substitute bill changes the date when a distributor responsibility organization (DRO) must implement a bottle deposit program.

CURRENT LAW:

PRODUCER RESPONSIBILITY AND PRODUCT STEWARDSHIP PROGRAMS

Washington has established several product stewardship programs, which regulate end-of-life management of certain products, such as pharmaceuticals and paint.

Stewardship organizations collect, transport, and provide end-of-life management for products covered under each stewardship program. In most cases, producers of regulated products must participate in a stewardship organization and pay fees to support its activities.



Ten-Year Analysis

Bill Number	Title	Agency
2144 S HB	Beverage deposit return prg.	140 Department of Revenue

This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Narrative Explanation (Required for Indeterminate Cash Receipts)

BUSINESS AND OCCUPATION (B&O) TAX

The B&O tax is a gross receipts tax measured on the value of products, gross proceeds of sale, or gross income of each taxpayer.

The tax rate varies by classification. For services and other activities, it is:

- 1.50% for taxpayers with less than \$1 million in service/other taxable during the prior calendar year, and
- 1.75% for taxpayers with a greater amount of service/other taxable during the prior calendar year.

For retailing activities, the tax rate is 0.471%.

The B&O tax applies to businesses, nonprofits and other entities. A taxpayer may not deduct expenses.

LITTER TAX

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

The Department of Revenue (department) is not involved in a litter tax study at this time.

PROPOSAL:

BOTTLE DEPOSIT PROGRAM

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

The bill adds a deduction to the B&O tax for the refund value of qualifying beverage containers sold by retail businesses. To qualify for the deduction, the refund value must be separately stated on a receipt, invoice, or similar billing document. The amount of the deduction claimed for a given period cannot exceed the refund value of beverage containers sold during that period.

The bill adds an exemption to the litter tax for the refund value of qualifying beverage containers if the charge is separately stated on an invoice.



Ten-Year Analysis

Bill Number	Title	Agency
2144 S HB	Beverage deposit return prg.	140 Department of Revenue

This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Narrative Explanation (Required for Indeterminate Cash Receipts)

DISTRIBUTOR RESPONSIBILITY FOR QUALIFYING BEVERAGE CONTAINERS

The Department of Ecology (Ecology) must oversee a distributor responsibility program for qualifying beverage containers. Under the program, bottle distributors must participate in a DRO.

Beginning October 1, 2025, or 120 days after Ecology approves a DRO's registration, each distributor must join a DRO.

The DRO must submit a deposit return system plan to Ecology that requires a minimum 60% recycling rate of all qualifying beverage containers by calendar year 2029.

For the first five years during which a DRO operates a deposit return system, the DRO must remit \$15,000,000 annually to the Recycling Revenue Augmentation Account established by this proposal.

DEFINITIONS

"Qualifying beverage container" means any separate, sealed glass, metal, or plastic bottle or can, except for a carton, foil pouch, drink box or metal container that require tool to be opened, that contains any beverage intended for human consumption, and in a quantity of greater than four ounces and less than or equal to one gallon, except products with dairy milk as a first ingredient and infant formula.

"Deposit return system" means a qualifying beverage container redemption program that pays a per-unit refund value to consumers for qualifying beverage containers and collects and processes qualifying beverage containers.

"Distributor" is defined to include an entity that engages in the sale of beverages in qualifying beverage containers to a dealer or to an entity that sells beverages in qualifying beverage containers to consumers for consumption on-site, including any manufacturer or importer who engages in such sales to dealers or directly to consumers, and dealers who self-distribute their own brands.

A "distributor responsibility organization" (DRO) means an entity designated by a group of distributors to develop and carry out the activities required of distributors under proposal.

LITTER TAX STUDY

The bill requires Ecology and the department to conduct a study of the impact of new requirements for the distributors of qualifying beverage containers. The study will examine the impact of the new requirements on litter rates for such containers. The study will also examine whether the state could improve the current litter tax administration, compliance, or incidence. Ecology will consult with the department as to whether the litter tax is meeting the legislative purposes.



Ten-Year Analysis

Bill Number	Title	Agency
2144 S HB	Beverage deposit return prg.	140 Department of Revenue

This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Narrative Explanation (Required for Indeterminate Cash Receipts)

Ecology will provide recommendations to the appropriate legislative committees by January 1, 2030.

The new tax preference performance provisions do not apply to either the B&O deduction or the litter tax exemption (see section 30 of the bill).

EFFECTIVE DATE:

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

ASSUMPTIONS

- The DRO collects fees from bottle distributors to cover all costs of plan implementation, including Ecology's implementation costs and other program costs.
- This estimate inflates projected DRO revenues from historical California values using the consumer price index for all urban consumers for the Seattle area.
- Per capita operating costs for the proposed program are similar to those observed for California's program.
- Only one DRO will operate during the earlier years of the program. This DRO will start collecting fees from distributors in November 2024. This DRO will:
 - Begin to require the collection of bottle deposits on May 1, 2028.
 - Implement the deposit return system on July 1, 2028.
- All retailers will separate the deposit from the retail sale amount. If a retailer states the charge for the deposit separately in the transaction and the separately stated charge equals the refund amount, then the deposit is exempt from retail sales tax. If the charge is not separately stated and not equal to the deposit amount, then the charge is retail sales taxable.
- Currently, tribes with compacts receive a share of certain B&O taxes (RCW 43.06.523). Under this bill the amount of revenue shared with tribes may decline.

DATA SOURCES:

- Bureau of Labor Statistics, CPI-U for Los Angeles-Long Beach-Anaheim, CA
- CalRecycle, annual reports
- Department of Ecology, Assumptions
- Economic and Revenue Forecast Council, November 2023 forecast
- Office of Financial Management, state population forecast.
- State of California, Historical Population and Housing Estimates

REVENUE ESTIMATES



Ten-Year Analysis

Bill Number 2144 S HB	Title Beverage deposit return prg.	Agency 140 Department of Revenue
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Narrative Explanation (Required for Indeterminate Cash Receipts)

This bill increases state revenues by an estimated \$1,320,000 in the seven months of impacted collections in fiscal year 2025, and by \$2,700 in fiscal year 2026, the first year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2024 -	\$ 0
FY 2025 -	\$ 1,320
FY 2026 -	\$ 2,700
FY 2027 -	\$ 2,730
FY 2028 -	\$ 3,150
FY 2029 -	\$ 4,610

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

Agency Preparation: Sara del Moral	Phone: 360-534-1525	Date: 1/26/2024 3:27:59 pm
Agency Approval: Valerie Torres	Phone: 360-534-1521	Date: 1/26/2024 3:27:59 pm
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 2144 S HB	Title Beverage deposit return prg.	Agency 461 Department of Ecology
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

No Cash Receipts

 Partially Indeterminate Cash Receipts

 Indeterminate Cash Receipts

Estimated Cash Receipts

Name of Tax or Fee	Acct Code	Fiscal Year 2024	Fiscal Year 2025	Fiscal Year 2026	Fiscal Year 2027	Fiscal Year 2028	Fiscal Year 2029	Fiscal Year 2030	Fiscal Year 2031	Fiscal Year 2032	Fiscal Year 2033	2024-33 TOTAL
Deposit Return Organization Fee	NEW				340,510	340,510	584,518	556,769	340,510	340,510	340,510	2,843,837
Total					340,510	340,510	584,518	556,769	340,510	340,510	340,510	2,843,837
Biennial Totals					340,510	925,028		897,279		681,020		2,843,837

Narrative Explanation (Required for Indeterminate Cash Receipts)

Deposit Return Organization Program Account (DRO Account)

Section 7 would require Ecology to implement, administer, and enforce this chapter. Ecology assumes one DRO would be established and registered with by October 20; and that no individual distributors would register as individual DROs as they would be required to independently fulfill all the requirements of the chapter.

By April 1, 2026, and annually thereafter, Ecology would prepare a workload analysis to identify annual costs in the next fiscal year, including rule making, that the DRO would be required to fund.

By June 30, 2026, the DRO would be required to pay Ecology the annual fee for the coming fiscal year. In lieu of the annual DRO fee payment. Fees would be deposited the DRO Account created in section 24.

Ecology assumes one DRO would register to operate a deposit return system on October 1, 2025. The first fee receipt collections would be due June 30, 2026 (for FY 20 Ecology assumes one DRO would be subject to the annual payment to support implementation of the DRS program. If more than one DRO were to implement the progra the annual fees would be allocated among the DRO based on each DRO's proportionate share of qualifying beverage containers managed by weight.

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



Ten-Year Analysis

Bill Number 2144 S HB	Title Beverage deposit return prg.	Agency 461 Department of Ecology
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Narrative Explanation (Required for Indeterminate Cash Receipts)

Estimated DROP Account Revenue FY 2027: \$340,510 FY 2028: \$340,510 FY 2029: \$584,518 FY 2030: \$556,769 FY 2031: \$340,510 FY 2032: \$340,510 FY 2033: \$340,510
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Agency Preparation: My-Hanh Mai	Phone: 360-742-6931	Date: 1/23/2024 4:43:39 pm
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 1/23/2024 4:43:39 pm
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 2144 S HB	Title Beverage deposit return prg.	Agency 468 Environmental and Land Use Hearings Office
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

No Cash Receipts

 Partially Indeterminate Cash Receipts

 Indeterminate Cash Receipts

Name of Tax or Fee	Acct Code												
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Agency Preparation: Dominga Soliz	Phone: 3606649173	Date: 1/25/2024 1:32:41 pm
Agency Approval: Dominga Soliz	Phone: 3606649173	Date: 1/25/2024 1:32:41 pm
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