

Multiple Agency Fiscal Note Summary

Bill Number: 6121 S SB	Title: Biochar production
-------------------------------	----------------------------------

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
Department of Ecology	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	0	0	0	0	0	0	0

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	Fiscal note not available						
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 Attorney General	Fiscal note not available											
Department of Ecology	.4	0	0	145,398	1.1	0	0	393,093	.0	0	0	29,000
Department of Ecology	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
Department of Natural Resources	Fiscal note not available											
Department of Agriculture	Fiscal note not available											
Total \$	0.4	0	0	145,398	1.1	0	0	393,093	0.0	0	0	29,000

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	Fiscal note not available								
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 Attorney General	Fiscal note not available								
Department of Ecology	.0	0	0	.0	0	0	.0	0	0
Department of Natural Resources	Fiscal note not available								
Department of Agriculture	Fiscal note not available								
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	Fiscal note not available								
Local Gov. Total									

Estimated Capital Budget Breakout

--

Prepared by: Lisa Borkowski, OFM	Phone: (360) 742-2239	Date Published: Preliminary 2/ 2/2024
---	---------------------------------	---

Individual State Agency Fiscal Note

Bill Number: 6121 S SB	Title: Biochar production	Agency: 461-Department of Ecology
-------------------------------	----------------------------------	--

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:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.0	0.9	0.4	1.1	0.0
Account					
Air Pollution Control Account-State 216-1	0	145,398	145,398	393,093	29,000
Total \$	0	145,398	145,398	393,093	29,000

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

Estimated Capital Budget Impact:

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact: Matthew Shepard-Koningsor	Phone: 360-786-7627	Date: 01/31/2024
Agency Preparation: Andrew Contreras	Phone: 360-485-7648	Date: 02/01/2024
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 02/01/2024
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 02/01/2024

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 SB 6121, SSB 6121 has the following changes:

- The term Biochar is replaced with Flame Cap Kilns as defined in section 2.
- Section 3 would amend RCW 70A.15.5090 to state that agricultural burning includes the combustion of natural vegetation from agricultural activities in portable flame cap kilns, provided that the biomass does not contain any prohibited materials as defined in RCW 70A.15.5010(1).
- Section 3(5) removes the previous reference to a new fee created for biochar production fees.

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

Currently, under the Washington Clean Air Act, chapter 70A.15 RCW, Ecology and local clean air agencies have authority to establish, implement, and enforce standards to control and prevent air pollution to protect public health and safety.

This bill would provide the Department of Natural Resources (DNR) authority to permit and assess permit fees for the combustion of natural vegetation from agricultural activities in portable flame cap kilns from the burning of natural vegetation from silvicultural activities. Ecology, local air agencies or a local entity with delegated authority would be authorized to charge fees for portable flame cap kilns for agricultural burning.

Section 2 would amend RCW 70A.15.1030 to add definitions Flame Cap Kiln and Silvicultural burning.

Section 3 would amend RCW 70A.15.5090 to specify that agricultural burning includes the combustion of natural vegetation from agricultural activities in portable flame cap kilns. This provision would authorize permit fees to be charged by Ecology, local air agencies, or a local entity with delegated permitting authority pursuant to RCW 70A.15.5100 at the time the permit is issued to assess and collect permit fees for burning under this section. Fees collected would be deposited in the Air Pollution Control Account except for that portion of the fee necessary to cover local costs of administering a permit issued with section 3. Fees would be set by rule by the permitting agency at the level determined by the agricultural burning practices and research task force.

Section 4 would amend RCW 70A.15.5120 to allow DNR to issue and regulate burn permits for combustion of natural vegetation from silvicultural activities in portable flame cap kilns.

Section 5 would amend RCW 70A.15.5140 to amend the list of alternative acceptable disposal methods that DNR should encourage to reduce the need for burning that includes use of portable flame cap kilns. Ecology assumes that we would continue to issue Notice of Construction and Air Operating Permits for portable flame cap kilns where required under federal rules.

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 indeterminate for section 3.

Section 3(5) would allow Ecology, the appropriate local air authority, or a local entity with delegated permitting authority pursuant to RCW 70A.15.5100 to assess and collect permit fees for the combustion of natural vegetation from agricultural activities in portable flame cap kilns from agricultural waste as set by rule by the permitting agency at the level determined by the agricultural burning practices and research task force up to \$3.75 per acre to be burned, or, in the case of pile burning, up to \$1.00 per ton of material burned. Revenue would be deposited in the Air Pollution Control Account (APCA)

Revenue from fees assessed for the combustion of natural vegetation from agricultural activities in portable flame cap kilns is indeterminate. Fees would need to be set by rule by the permitting agency at the level determined by the task force up to \$3.75 per acre to be burned, or, in the case of pile burning, up to \$1.00 per ton of material burned. In addition, Ecology assumes that more information is required to assess the expected permit applications for the combustion of natural vegetation from agricultural activities in portable flame cap kilns upon adoption of a revised rule.

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 section 3. Costs to administer the permit program under section 3 are indeterminate.

Fund Source: Currently, Ecology has an existing agricultural burn permit program funded through the fees and penalties received through the program that are deposited into APCA. Ecology assumes funding to implement and administer the new permit program required under section 3 would be funded using APCA, similar to how Ecology's existing program is funded.

Section 3 – Rulemaking

Section 3(1) authorizes Ecology and local air agencies to issue permits for the combustion of natural vegetation from agricultural activities in portable flame cap kilns. We assume that Ecology would need to amend Chapter 173-430 WAC (Agricultural Burning) in order to incorporate the statutory definition of "flame cap kiln".

Ecology assumes that rulemaking would be moderately complex with a normal level of public interest and controversy. It would require 18 months, from July 2025 to January 2026. The rule would need to amend Chapter 173-430 WAC (Agricultural Burning) in order to incorporate the statutory definition of "flame cap kiln". This type of rulemaking would require one preproposal meetings to gather input from stakeholders. An Environmental Justice Assessment would also be required under the HEAL Act.

The following positions would be required for rulemaking:

0.5 FTE Environmental Planner 3 in FY 2025 and 0.25 FTE in FY 2026 – this position would be the rulemaking lead, coordinating the rulemaking effort.

0.25 FTE Environmental Engineer 6 in FY 2025 and 0.13 FTE in FY 2026 – this position would be the technical lead, advising on rule language and driving the overall policy change of the program.

The following positions would complete an economic and regulatory analysis of the rule: 0.2 FTE Economic Analyst 3 in FY 2026; 0.05 FTE Regulatory Analyst 2 in FY 2026

Ecology would hold at least one public hearing in FY 2025 for rulemaking. Goods and services estimates include facility rental costs estimated at \$1,000 per hearing.

The Attorney General's Office estimates 0.02 FTE Assistant Attorney General at a cost of \$5,800 in FY 2025 and 0.02 FTE at a cost of \$5,800 in FY 2026, and 0.05 FTE at a cost of \$14,500 ongoing to advise Ecology on supporting permitting and enforcement of the program. Expenditures are shown in goods and services.

Section 3 - Program Implementation

The fiscal impact to administer the permit program under section 3 is indeterminate. Ecology assumes that more information is required to assess the expected permit applications for the combustion of natural vegetation from agricultural activities in portable flame cap kilns upon adoption of a revised Chapter 173-430 WAC. Ecology assumes a requirement of resources to support issuance of permits to ensure they comply with federal requirements and the new general permit criteria under Chapter 173-430 WAC.

Ecology assumes resources would be required to support the enforcement of the revised rule, including the need to support Ecology's development of notices of violation, enforcement orders, and civil penalties for permit violations and for operating flame cap kilns without a proper permit that would need to be included in program implementation.

For the purposes of the fiscal note, Ecology assumes additional IT costs related to implementation requirements noted in section 3. Ecology estimates that we would have to add functionality to the Burn Permit Application (BPA) and the Air Quality Burn Permit System (AQBPS) for calculating permit fees. It would result in a new IT project beginning in FY 2026, estimated as follows:

0.1 FTE IT Manager – The program would require the assistance and management of a IT Manager to provide supervision, support, and outreach for the program through the duration of the IT project.

0.15 FTE IT Business Analyst - Journey in FY 2026 to update the existing BPA & AQBPS IT applications to align with the updated requirements.

0.2 FTE IT Application Developer - Senior in FY 2026 to update the existing BPA & AQBPS IT applications to align with the updated requirements.

0.5 FTE IT Application Developer – Journey in FY 2026 to update the existing BPA & AQBPS IT applications to align with the updated requirements.

0.1 FTE IT System Admin - Journey in FY 2026 to update the existing BPA & AQBPS IT applications to align with the updated requirements.

0.2 FTE IT Project Manager – Journey in FY 2026 to update the existing BPA & AQBPS IT applications to align with the updated requirements.

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

Section 3 Rulemaking is estimated to require:

FY 2025: \$145,398 and 0.86 FTEs

FY 2026: \$119,669 and 0.72 FTEs

Section 3 IT Implementation is estimated to require:

FY 2026: \$258,924 and 1.44 FTEs

Section 3 Program Implementation:

FY 2027 and ongoing: AGO costs of \$14,500 per year; all other costs indeterminate

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

FY 2025: \$145,398 and 0.86 FTEs

FY 2026: \$378,593 and 2.16 FTEs

FY 2027 and ongoing: Indeterminate

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.

Goods and Services are the agency average of \$6,048 per direct program FTE. Also included are AGO costs of \$5,800 in FY 2025, \$5,800 in FY 2026, and \$14,500 in FY 2027 and ongoing.

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
216-1	Air Pollution Control Account	State	0	145,398	145,398	393,093	29,000
Total \$			0	145,398	145,398	393,093	29,000

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

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.9	0.4	1.1	
A-Salaries and Wages		75,515	75,515	203,867	
B-Employee Benefits		25,751	25,751	69,520	
E-Goods and Other Services		11,336	11,336	31,671	29,000
G-Travel		1,654	1,654	4,147	
J-Capital Outlays		965	965	2,418	
9-Agency Administrative Overhead		30,177	30,177	81,470	
Total \$	0	145,398	145,398	393,093	29,000

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

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

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
ECONOMIC ANALYST 3	95,627				0.1	
ENVIRONMENTAL ENGINEER 6	128,628		0.3	0.1	0.1	
ENVIRONMENTAL PLANNER 3	86,716		0.5	0.3	0.1	
FISCAL ANALYST 2			0.1	0.0	0.1	
IT APP DEVELOPMENT-JOURNEY	107,154				0.3	
IT APP DEVELOPMENT-SR/SPEC	124,071				0.1	
IT APP DEV-JOURNEY			0.0	0.0	0.1	
IT BUSINESS ANALYST-JOURNEY	107,154				0.1	
IT PROJECT MGMT-JOURNEY	112,540				0.1	
IT PROJECT MGMT-MANAGER	136,745				0.1	
IT SYSTEM ADMIN-JOURNEY	112,540				0.1	
REGULATORY ANALYST 2	88,798				0.0	
Total FTEs			0.9	0.4	1.1	0.0

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

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

NONE

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

NONE

Part V: New Rule Making Required

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

Ecology assumes we would need to amend Chapter 173-430 WAC (Agricultural Burning) for the requirements under section 3 to establish the permit program requirements by rule.



Ten-Year Analysis

Bill Number 6121 S SB	Title Biochar production	Agency 461 Department of Ecology
---------------------------------	------------------------------------	--

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												
Total													

Biennial Totals

Narrative Explanation (Required for Indeterminate Cash Receipts)

Section 3 – Fees for implementation

The revenue impact to Ecology under this bill indeterminate to implement the requirements of section 3.

Ecology assumes that there more information is required to assess the expected permit applications for the combustion of natural vegetation from agricultural activities in portable flame cap kilns upon adoption of a revised Chapter 173-430 WAC. Ecology assumes a requirement of resources to support issuance of the flame cap kilns perm to ensure they comply with federal requirements and the new general permit criteria under Chapter 173-430 WAC.

Agency Preparation: Andrew Contreras	Phone: 360-485-7648	Date: 2/1/2024 2:46:16 pm
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 2/1/2024 2:46:16 pm
OFM Review:	Phone:	Date: