

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 5144 E 2S SB	<b>Title:</b> Batteries/environment
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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.								
Department of Ecology	0	0	0	0	0	673,097	0	0	1,022,063
<b>Total \$</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>673,097</b>	<b>0</b>	<b>0</b>	<b>1,022,063</b>

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	Fiscal note not available											
Department of Commerce	Fiscal note not available											
Office of Administrative Hearings	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Revenue	Fiscal note not available											
Utilities and Transportation Commission	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Ecology	3.7	0	0	1,220,200	2.5	0	0	1,056,327	3.6	0	0	1,022,063
Environmental and Land Use Hearings Office	Fiscal note not available											
<b>Total \$</b>	<b>3.7</b>	<b>0</b>	<b>0</b>	<b>1,220,200</b>	<b>2.5</b>	<b>0</b>	<b>0</b>	<b>1,056,327</b>	<b>3.6</b>	<b>0</b>	<b>0</b>	<b>1,022,063</b>

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

## Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Office of State Treasurer	.0	0	0	.0	0	0	.0	0	0
Office of Attorney General	Fiscal note not available								
Department of Commerce	Fiscal note not available								
Office of Administrative Hearings	.0	0	0	.0	0	0	.0	0	0
Department of Revenue	Fiscal note not available								
Utilities and Transportation Commission	.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	Fiscal note not available								
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

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

## Estimated Capital Budget Breakout

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<b>Prepared by:</b> Lisa Borkowski, OFM	<b>Phone:</b> (360) 742-2239	<b>Date Published:</b> Preliminary 3/15/2023
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# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5144 E 2S SB	<b>Title:</b> Batteries/environment	<b>Agency:</b> 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:	Phone:	Date: 03/14/2023
Agency Preparation: Dan Mason	Phone: (360) 902-8990	Date: 03/15/2023
Agency Approval: Dan Mason	Phone: (360) 902-8990	Date: 03/15/2023
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 03/15/2023

## Part II: Narrative Explanation

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

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

E2SSB 5144 creates the responsible battery management account, coupled with the general fund as the recipient of the earnings from investments 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

<b>Bill Number:</b> 5144 E 2S SB	<b>Title:</b> Batteries/environment	<b>Agency:</b> 110-Office of Administrative Hearings
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

NONE

**Estimated Capital Budget Impact:**

NONE

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

Check applicable boxes and follow corresponding instructions:

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

Legislative Contact:	Phone:	Date: 03/14/2023
Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 03/15/2023
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 03/15/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 03/15/2023

## Part II: Narrative Explanation

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

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

No fiscal impact. This legislation will not increase the appeal workload for the Office of Administrative Hearings (OAH).

Under Section 12 of this legislation, all appeals will go to the Pollution Control Hearings Board which is under the Environmental & Land Use Hearings Office umbrella.

### 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.*

None.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

### III. B - Expenditures by Object Or Purpose

NONE

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

NONE

### III. D - Expenditures By Program (optional)

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

### IV. B - Expenditures by Object Or Purpose

NONE

### IV. C - Capital Budget Breakout

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

NONE

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

NONE

## **Part V: New Rule Making Required**

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



# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5144 E 2S SB	<b>Title:</b> Batteries/environment	<b>Agency:</b> 215-Utilities and Transportation Commission
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## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

NONE

**Estimated Operating Expenditures from:**

NONE

**Estimated Capital Budget Impact:**

NONE

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

Check applicable boxes and follow corresponding instructions:

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

<b>Legislative Contact:</b>	<b>Phone:</b>	<b>Date:</b> 03/14/2023
Agency Preparation: Amy Andrews	Phone: 360-481-1335	Date: 03/15/2023
Agency Approval: Amy Andrews	Phone: 360-481-1335	Date: 03/15/2023
OFM Review: Tiffany West	Phone: (360) 890-2653	Date: 03/15/2023

## Part II: Narrative Explanation

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

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

This bill would create a battery stewardship program, providing for the responsible environmental management of batteries.

It amends portions of RCW 43.21B(Pollution Control Hearings Board), adds a section to RCW 82.04 (B&O Tax), and adds a section to RCW 70A (Environmental Health and Safety).

Section 1 states batteries should not be placed into commingled recycling containers or disposed of via traditional garbage collection containers.

Section 3 requires producers selling batteries into the state shall participate in an approved Washington state battery stewardship plan through participation by January 1, 2027, in and appropriate funding of a battery stewardship organization

Section 7 requires that (1) Each battery stewardship organization must ensure adequate funding is available to fully implement approved battery stewardship plans, including the implementation of aspects of the plan addressing:

(a) Battery collection, transporting, and processing.

Section 8 states each battery stewardship plan must allow any person, business, government agency, or nonprofit organization to discard each chemistry and brand of covered battery at each collection site.

The Engrossed Second Substitute removes “curbside services” from the list of existing public and private collection facilities that stewardship organizations must use. This eliminates the concern that covered batteries could be considered as regulated solid waste collection.

Section 20 states nothing in this chapter changes or limits the authority of the Washington utilities and transportation commission to regulate collection of solid waste, including curbside collection of residential recyclable materials.

The definition of solid waste collection in RCW 81.77.010(8) states: "Solid waste collection" does not include collecting or transporting recyclable materials from a drop-box or recycling buy-back center, or collecting or transporting recyclable materials by or on behalf of a commercial or industrial generator of recyclable materials to a recycler for use or reclamation.

Therefore, nothing in this measure has any fiscal impact on the commission.

### 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.*

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

**III. B - Expenditures by Object Or Purpose**

NONE

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

NONE

**III. D - Expenditures By Program (optional)**

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

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

NONE

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

NONE

**Part V: New Rule Making Required**

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

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5144 E 2S SB	<b>Title:</b> Batteries/environment	<b>Agency:</b> 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
Responsible Battery Management Account-Non-Appropriated NEW-6				673,097	1,022,063
<b>Total \$</b>				673,097	1,022,063

### Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.3	4.1	3.7	2.5	3.6
<b>Account</b>					
Model Toxics Control Operating Account-State 23P-1	650,364	569,836	1,220,200	383,230	0
Responsible Battery Management Account-Non-Appropriated NEW-6	0	0	0	673,097	1,022,063
<b>Total \$</b>	650,364	569,836	1,220,200	1,056,327	1,022,063

### 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.*

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

Legislative Contact:	Phone:	Date: 03/14/2023
Agency Preparation: Lori Peterson	Phone: 360-280-4075	Date: 03/15/2023
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 03/15/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 03/15/2023

## Part II: Narrative Explanation

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

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

Compared to 5144 2SSB, 5144 E2SSB has the following changes:

Section 2 includes changes to several definitions.

Section 5 clarifies that each battery stewardship organization must submit stewardship plans to Ecology for approval by July 1, 2026, instead of within six months of rules adoption.

Section 7 requires a battery stewardship organization to reimburse local governments for demonstrable costs, as defined by rules adopted by Ecology.

Section 11 requires Ecology to allocate the agency's annual costs between stewardship organizations, if applicable.

These changes would not result in changes to the fiscal impact for Ecology.

Under current law, the Department of Ecology (Ecology) implements four extended producer responsibility (EPR) programs for electronics, paint, photovoltaic modules, and mercury containing lights. This bill would create a new producer responsibility program for Ecology, and one of the first all-battery programs in the country.

Recycling of used household batteries is not required under state law or regulation. Recycling of used batteries is encouraged but is not mandated by the state. Currently, Washington D.C. implements a legislated producer-funded battery take-back program, and California passed legislation in 2022, but no states have battery stewardship programs for all batteries.

This bill would establish a battery stewardship program, funded by producers, for portable used batteries beginning January 1, 2027, and would phase in medium format batteries January 1, 2029, and large format batteries, lead acid batteries greater than 11 pounds, batteries in medical devices, and products with embedded batteries beginning July 1, 2031.

Section 3 would require each producer of covered batteries or battery-containing products selling in or into the state of Washington to participate in an approved Washington state battery stewardship plan beginning January 1, 2027.

Section 4 would ban the sale of a covered battery or battery-containing product beginning July 1, 2027, for portable batteries, and July 1, 2029, for medium format batteries, unless the producer of the covered battery or battery containing product participates in an approved stewardship plan. A retailer would be required to provide consumers with information about the program but would not be allowed to collect a fee at the point-of-sale to fund the program. This bill would also ban stewardship organizations from charging a specific point-of-sale fee to consumers. This section would require producers to certify to retailers that batteries contained in battery containing products meet the marking requirements of section 14.

Section 5 would require each battery stewardship organization (SO) to submit a plan for approval by July 1, 2026. Ecology would be authorized to request a SO to submit a revised plan no less than every five years after the initial approval of a plan and adopt rules to identify the types of significant changes that require a new plan to be submitted to Ecology for approval. It would require the plan to include goals for increasing public awareness of the program in vulnerable populations and overburdened communities as identified in chapter 70A.02 RCW. This section would clarify how a SO can demonstrate environmentally sound and social just management in the stewardship plan components.

Section 6 would provide more detail on the performance goals that would need to be included in the SO plan (s).

Section 7 would require producers to adequately fund the full implementation of the stewardship plan(s), including battery collection and processing, education and outreach, program evaluation, and administrative fees to Ecology. It would encourage a SO to use eco-modulated fees when charging participating battery producers, to reduce the environmental impacts of covered batteries. A SO would be required to reimburse local governments for reasonable and demonstrable costs incurred resulting from battery collection activities, including labor costs, to be defined by Ecology through rulemaking.

Section 8 would establish collection site requirements and standards. All collection sites would have to collect all covered batteries regardless of brand or chemistry on a free, continuous, convenient, visible, and accessible basis. The SO would have to provide collection sites with collection containers. This section would set a convenience standard that ninety-five percent of Washington residents would have a permanent collection site within a fifteen-mile radius. One additional collection site for every thirty thousand residents of an urbanized area and urban cluster of at least thirty thousand residents would have to be provided, and service to island and geographically isolated communities. It would require a minimum of 25 collection sites be established for medium format batteries with a collection location in each county with a population of at least 200,000. Sites collecting medium format batteries would be restricted to household hazardous waste collection locations; for damaged or defective batteries, collection sites would be staffed by persons certified to handle and ship hazardous materials under federal regulations. Collection sites accessible to overburdened communities identified by Ecology under chapter 70A.02 RCW would be established proportionally to the number and population of those communities.

Section 9 would require each SO to carry out educational and promotional activities including maintenance of a website, press releases, advertisements, and other promotional materials. During the first year and every five years, each SO would have to carry out a public awareness survey and share the results with Ecology. The SO would be required to implement outreach and educational resources targeted to overburdened communities and vulnerable populations identified by Ecology under chapter 70A.02 RCW.

Section 10 would require each SO to submit an annual report as outlined in the bill to Ecology by June 1, 2028, and annually thereafter. This section would also allow the SO to request records be made available only for the confidential use of Ecology, as authorized in RCW 43.21A.160. This section would clarify how a battery stewardship organization can demonstrate environmentally sound and social just management in annual reports to Ecology.

Section 11 would require Ecology to adopt rules as necessary for the purpose of implementing, administering, and enforcing the chapter, including establishing fees to be paid annually by a SO to cover Ecology's full costs of implementing, administering, and enforcing the chapter. Ecology's responsibilities would include but not be limited to the following: reviewing and approving stewardship plans and amendments, reviewing annual reports, maintaining a website, providing outreach and assistance to producers and retailers related to their obligations under this chapter, allocating fees between battery stewardship organizations, if applicable, and issuing orders or imposing civil penalties when necessary.

Section 12 would authorize a SO to take civil action against producers who fail to participate in a stewardship plan. It would authorize a SO to take civil action against another underperforming SO. It would also authorize Ecology to issue warning letters, an order requiring compliance, and impose a civil penalty of up to \$1,000 per violation per day or up to \$10,000 per violation per day for repeated violations or failure to comply with an issued order. Penalties would not be assessed to an individual or resident for the improper disposal of covered batteries in a noncommercial or residential setting.

Section 13 would create the Responsible Battery Management Account to be used solely by Ecology for implementing, administering, and enforcing the chapter. The account would be subject to allotment procedures, but not appropriation.

Section 14 would require producers to use markings to identify the battery producer beginning January 1, 2028. By January 1, 2030, the markings must identify the battery chemistry and indicate that the battery should not be disposed of as household waste. Ecology would be authorized to amend marking requirements by rule to maintain consistency with federal

law or laws of other states.

Section 15 would ban the disposal of covered batteries in waste containers or mixed non-battery recycling containers at the point of generation beginning July 1, 2027, for portable batteries and July 1, 2029, for medium format batteries, or the first date on which an approved plan begins to be implemented, whichever comes first. Exceptions would be provided for commercial, industrial, or government facilities and programs, which may use other responsible battery management programs.

Section 16 would require Ecology to complete an assessment of end-of-life management for large format batteries, lead acid batteries weighing more than eleven pounds, batteries contained in medical devices, and embedded batteries in consultation with Department of Commerce (Commerce) by July 1, 2027. Ecology would submit a report with the findings of the assessment to the appropriate committees of the legislature by October 1, 2027. Ecology would be required to consult with vulnerable populations and overburdened communities identified under chapter 70A.02 RCW as part of the assessment. The assessment would make recommendations regarding which parts of law should apply to large format batteries and should be addressed in rule.

Section 17 would authorize Ecology to adopt rules by January 1, 2030, requiring producers of large format batteries, lead acid batteries weighing more than eleven pounds, battery-containing products, batteries in medical devices, and products with embedded batteries to participate in a stewardship program that achieves environmentally positive outcomes as the program created for portable and medium format batteries. As part of rulemaking, Ecology would need to evaluate any existing battery management systems to see if those programs achieve a 95% collection rate, to determine whether certain batteries can be excluded from the rule. Large format batteries would be required to participate in a stewardship program by no earlier than July 1, 2031.

Section 18 would require Ecology to submit a report to the appropriate committees of the Legislature with preliminary policy recommendations for the collection and recycling of EV batteries by November 30, 2023, and submit a final report by April 30, 2024. Ecology would be required to solicit input from various interested parties and consider best practices in other states and jurisdictions in developing the recommendations.

## **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 and ongoing for fee revenue collected into the new Responsible Battery Management Account. No cash receipts are estimated for penalties.

Section 11 would require Ecology to establish an annual fee in rule for the purposes of covering Ecology's full costs associated with the implementation, administration, and enforcement of the battery stewardship program as outlined in the bill.

Section 13 would require that the fee be deposited into the new Responsible Battery Management Account. The bill would provide that costs of the ongoing program would be paid for by this new account. Upon consultation with the AGO, Ecology assumes fee collections would begin in FY 2027 after rulemaking is complete to establish the program and fee.

Ecology assumes the fee would be collected from two product stewardship organizations and fee collections would start in FY 2027. Ecology estimates that billing and fee collection would reflect Ecology's estimate of costs as outlined in this fiscal note in each fiscal year. Variances from each year's estimate and actual costs would be adjusted in the next billing cycle. For purposes of this fiscal note, revenue from fee collections is shown in the same year as estimated costs and is assumed to be equal to estimated costs.

Section 12 would provide authority for Ecology to impose penalties of up to \$1,000 per violation per day, and up to \$10,000

per violation per day for repeated violations or failure to comply with an issued order, and would not allow penalties for individuals or residents for the improper disposal of covered batteries in a noncommercial or residential setting. Ecology assumes that if a retail establishment or any person subject to the penalty provisions of section 12 were to violate this chapter, Ecology would send a written warning letter to them to bring them into compliance. Failure to come into compliance after a warning letter is issued would result in Ecology issuing an order requiring compliance. Enforcement actions and penalties are assumed to be limited, but unknown, and therefore are not estimated in this fiscal note.

## II. C - Expenditures

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

The expenditure impact to Ecology under this bill is estimated to be greater than \$50,000 in Fiscal Year (FY) 2024 and ongoing to implement the requirements of sections 5, 8, 9, 10, 11, 12, 14, 16, and 17.

Ecology assumes expenditures in the Responsible Battery Management Account would begin in FY 2027, after rulemaking to establish the program and fee is complete, and once revenue collections into the account begin. Expenditures in FY 2024 through FY 2026 are estimated in MTCA - Operating. MTCA supports the state's responsibility for solid waste management, regulation, enforcement, technical assistance, and public education under chapter 70A.205 RCW.

### RULEMAKING (Section 11)

Rulemaking authority is provided in sections 5, 7, 11, 14, and 17, to implement various components of the bill. Ecology assumes section 11 would provide the authority necessary to implement the requirements of the entire bill.

Section 11 would require Ecology to adopt rules as necessary for the purpose of implementing, administering, and enforcing the chapter, including establishing fees, to be paid annually by a SO to cover Ecology's full costs of implementing, administering, and enforcing the chapter.

Ecology's responsibilities include reviewing and approving stewardship plans and amendments, posting plans for public review and comments, reviewing annual reports, maintaining a website, posting, and maintaining a list of producers and brands provided by a SO, providing outreach and assistance to producers and retailers related to their obligations under this chapter, allocating fees between battery stewardship organizations, if needed, and issuing orders or imposing civil penalties when necessary.

Based on previous experiences implementing other product stewardship programs and consultations with the agency rules unit and the Attorney General Office (AGO), Ecology assumes a two-year highly technical rule-making process would be required. Ecology assumes three public meetings when developing draft rule language with a webinar option, and three public hearings for the proposed rule language. Ecology assumes rulemaking would begin October 1, 2023 (FY 2024) and be completed with rule adoption on September 30, 2025 (FY 2026).

The following staff needs are identified for this initial rulemaking:

A rule coordinator would oversee the rulemaking process to comply with the Administrative Procedures Act; prepare rule development and communication plan; prepare and file CR-101; coordinate and conduct three meetings, public outreach; file CR-102 and hold three public hearings with webinars access; work with economist on economic analysis; work with technical staff to finalize rule language; and file the CR-103 for adoption. This is estimated to require 0.08 FTE Regulatory Analyst 3 (RA-3) in FY 2024, 0.10 FTE in FY 2025, and 0.03 FTE in FY 2026.

A rulemaking lead would provide technical support to the rule coordinator; identify interested and impacted parties; coordinate meetings and public outreach; draft rule language; write rule-related documents such as responsiveness



summaries and rule development documents, develop enforcement and fee allocation guidance documents, prepare information for the economic analysis, solicit information from local governments to define costs to be reimbursed by battery stewardship organizations, and respond to questions. This is estimated to require 0.56 FTE Environmental Planner 4 (EP-4) in FY 2024, 0.75 FTE EP-4 in FY 2025, and 0.19 FTE EP-4 in FY 2026.

A subject matter expert would advise on the technical aspects of battery collection and recycling such as battery chemistries and types; various recycling technologies; constituents and products from battery recycling; and U.S.D.O.T. regulations regarding the transport of batteries. This is estimated to require 0.56 FTE Environmental Specialist 5 (ES-5) in FY 2024, 0.75 FTE in FY 2025, and 0.19 FTE in FY 2026.

Technical support staff would advise on the universal waste rules for the management of batteries and any other battery management requirements under the state's dangerous waste regulation chapter 173-303 WAC. This is estimated to require 0.19 FTE Regulatory Analyst 3 (RA-3) in FY 2024, 0.25 FTE in FY 2025, and 0.06 FTE in FY 2026.

Technical support staff would assist with HEAL Act requirements. This is estimated to require 0.19 FTE EP-3 in FY 2024, 0.25 FTE in FY 2025, and 0.06 FTE in FY 2026.

A communications lead would coordinate an outreach strategy and media engagement. This would require 0.08 FTE Communications Consultant 5 (CC-5) in FY 2024, 0.10 FTE in FY 2025, and 0.03 FTE in FY 2026.

A website developer would coordinate with the rulemaking lead on a public website for the rulemaking process. This would require 0.08 FTE Communications Consultant 3 (CC-3) in FY 2024, 0.10 FTE in FY 2025, and 0.03 FTE in FY 2026.

An outreach coordinator would organize public meetings, prepare informational materials, and respond to questions throughout the rulemaking process. This would require a Community Outreach & Environmental Education Specialist 3 (COEES-3) 0.08 FTE in FY 2024, 0.10 FTE in FY 2025, and 0.03 FTE in FY 2026.

Economic research staff would complete economic and regulatory analysis in support of the rule as required by law. This is estimated to require 0.25 FTE of an Economic Analyst 3, and 0.10 FTE of a Regulatory Analyst 2 in FY 2025.

One public meeting would be held in FY 2024, two public meetings and three public hearings would be held in FY 2025. Cost estimates include facility rental costs, estimated at \$1,000 per meeting for a total of \$1,000 in FY 2024 and \$5,000 in FY 2025 in Object E.

Upon consultation with the Attorney General Office (AGO), Ecology assumes 0.05 FTE Assistant Attorney General (AAG) and 0.03 FTE Legal Assistant 3 (LA) for a total cost of \$14,000 each year in FYs 2024 and 2025, and 0.01 FTE AAG and 0.01 FTE LA each year in FY 2026 and FY 2027, for estimated costs of \$3,000 in each year for advice on general implementation and enforcement.

## REVIEW AND APPROVE PLANS AND ANNUAL REPORTS (Sections 5 and 10)

### Plan Review and Approval

Section 5 would require each battery SO to submit a plan for approval by July 1, 2026. For purposes of this fiscal note, Ecology assumes rulemaking would begin as soon as possible, and rules would be adopted by October 1, 2025. However, for purposes of alignment with the other dates established in sections 5 and 15 and allowing time for coordination with SOs to ensure received plans are complete, Ecology assumes completed plans would be submitted by July 1, 2026. Ecology would be required to review and approve the plan to see if it adequately addresses the required components as outlined in this section. Ecology assumes two new plans would be submitted for review by July 1, 2026, and they would be approved by January 1, 2027 (FY 2027). Ecology assumes two plan amendments to incorporate medium format batteries in FY 2028.

Ecology assumes plan updates would occur every five years after the initial approval.

Ecology assumes the program would start on July 1, 2027, after the rule is adopted and six months after the plan is approved by Ecology. Based on our experience implementing the Paint Stewardship program, Ecology assumes two plans would have to be reviewed starting in FY 2027. Ecology estimates 0.32 FTE EP-4 in FY 2027 to review the plans and facilitate the process for confidentiality requests.

All plans received would need to be posted for public review and comment, and those comments would need review and appropriate follow-up. Ecology estimates 0.05 FTE EP-4 and 0.05 FTE CC-3 in FY 2027 and every five years.

Ecology further assumes that once every five years after the initial approval of a plan, a complete plan revision submittal would be necessary to ensure compliance. We assume future revisions would require the same level of effort as the initial plan reviews. The first five-year plan renewal review would occur in FY 2032.

When the rulemaking for large format and other battery categories is complete in FY 2029, Ecology assumes a new SO would submit a plan to cover these new battery categories. Ecology assumes one plan for large format batteries to be submitted July 1, 2029, and the plan would require the same level of effort to review as initial plan submittals, beginning in FY 2030 and every five fiscal years thereafter.

### Annual Reports

Section 10 would require each SO to submit an annual report as outlined in the bill to Ecology by June 1, 2028, and annually thereafter. Ecology assumes two annual reports would be submitted by two stewardship organizations by June 1, 2028. Ecology assumes the reporting requirements would be quite extensive and intensive to review. Ecology further assumes the SO would request confidentiality for parts of their annual reports. Ecology estimates 0.32 FTE EP-4 beginning in FY 2029 and annually thereafter would be required to review of these reports and facilitate the process for confidentiality requests. Ecology assumes it would review the performance goals submitted by the SOs beginning with the second annual report submittal in FY 2030. Ecology estimates an incremental increase of 0.02 FTE EP-4 beginning in FY 2030 and ongoing.

### TECHNICAL ASSISTANCE, PROGRAM IMPLEMENTATION, COMPLIANCE (Sections 5, 8, 9, 12, 14, and 16)

This section addresses the components of the stewardship program that would have impact to Ecology, which we assume would be informed by rulemaking. The program would also incorporate environmental justice considerations, as described in sections 5, 8, and 9 in the bill. Workload assumptions and estimates for identifying vulnerable populations and overburdened communities are provided in sections below discussing technical assistance, program implementation, and compliance.

### Collection & Management Requirement

Section 8 outlines the collection site requirements, referred to as convenience standards. Ecology would be required to verify that the convenience standards have been met as part of plan approval (sections 5 and 11). Ecology assumes two plans would be submitted and that the proposed collection networks would need to be analyzed separately. Based on our experience implementing the Paint Stewardship program, Ecology estimates 0.04 FTE of an IT APP Development-SR/ Specialist to conduct this analysis in FY 2027 and every five years thereafter for initial plans and renewals, and FY 2031 and every five years thereafter for large format battery-related plans and renewals.

The SOs would be required to manage the batteries they collect according to the waste management hierarchy. Section 8 would allow SOs to manage batteries with lower [on the hierarchy] methods only when they document to Ecology that higher priority methods are not technologically feasible or economically practical. Ecology assumes the SOs would provide the needed documentation in the initial plan submittal. Ecology assumes that with each annual report, the SO would also provide documentation and justification to support how batteries were managed according to the waste hierarchy; especially

as it relates to performance goals established in the plan. Ecology assumes review of this documentation would involve considerable research and analysis. Ecology estimates 0.08 FTE EP-4 in FY 2027 and 0.02 FTE in FY 2028 and ongoing to conduct this work.

## Education and Outreach

Section 9 would require the SOs to provide Ecology with the results of consumer awareness survey for review in the first year of program implementation and every five years afterwards. Ecology assumes it would review the survey results to ensure the SOs meet the education and outreach requirements of the plan. The survey results would be an important performance indicator for the program, especially in meeting outreach and awareness goals related to vulnerable populations and overburdened communities. If SOs aren't meeting awareness goals established in the plan, Ecology may require further actions to improve awareness. Ecology estimates 0.02 FTE EP-4 in FY 2028, and every five years thereafter.

## Technical Assistance

Based on our experience implementing other extended producer responsibility programs, Ecology assumes technical assistance would be required to field questions from the stewardship organizations, to provide them with feedback on draft plans, and to provide support and guidance on notifying interested and impacted parties prior to the plan due date. Ecology assumes technical assistance for the SO would occur immediately after the bill passage and the level of effort would increase during the two years prior to the plan submittal. Ecology estimates that this work would require 0.25 FTE EP-4 in FY 2024 and increase to 0.50 FTE EP-4 each year in FY 2025, and FY 2026.

In addition to review of the plans, Ecology assumes monthly meetings with the SO through the first year of plan implementation. There would be ongoing routine technical assistance to interested parties including stewardship organizations, retailers, battery producers, recyclers, and members of the public. Information about the program would be constantly evolving as medium format batteries are added in 2029 and large format batteries are added in 2031. The need for technical assistance would be ongoing. Ecology estimates 0.50 FTE EP-4 would be required in FY 2027 and ongoing for these purposes.

Additionally, Ecology assumes it would provide the SO with information on vulnerable populations and overburdened communities to support overall program development (section 5), and specifically the establishment of a collection network (section 8), and the development of outreach and education materials (section 9). Ecology assumes this information would also be used as part of the assessment for large format batteries (section 16). Ecology estimates 0.05 FTE of an Environmental Planner 3 (EP-3) in FY 2024, 0.20 FTE EP-3 in FY 2025 as stewardship plans are being developed; and 0.10 FTE EP-3 in FY 2026, and every five fiscal years thereafter with new plan submittals.

## Program Implementation

Ecology would be required to create and maintain a website related to this program, and post and maintain a list of producers and brands participating in this program. Ecology estimates 0.10 FTE Communications Consultant 3 (CC-3) in FY 2024 to initially create the website, dropping to 0.05 FTE in FY 2025 and ongoing to maintain and keep the website current

Based on experience implementing the paint stewardship program, additional assistance from the Hazardous Waste Toxics Reduction program would be needed to help develop guidance for businesses regulated under the state's dangerous waste regulations, chapter 173-303 WAC. Stewardship organizations and their transporters and processors would also need technical assistance related to chapter 173-303 WAC. Ecology estimates 0.25 FTE RA3 beginning in FY 2026, and 0.75 FTE in FY 2027, and 0.25 FTE in FY 2028 and ongoing.

Work to ensure compliance by producers, SOs, and retailers would start once the program begins in FY 2028. Based on our experience implementing other stewardship programs, Ecology assumes site visits to collection sites or processors would be

necessary to ensure compliance. Ecology estimates 0.25 FTE EP-4 beginning in FY 2028 and ongoing thereafter.

## Enforcement

Section 12 would authorize Ecology to issue an order requiring compliance and impose a civil penalty of up to \$1,000 per violation per day, or up to \$10,000 per violation per day, for repeated violations or failure to comply with an issued order. Ecology assumes the purpose of the penalty is to ensure compliance and that Ecology would issue warning letters and provide technical assistance to gain compliance. We assume minimal enforcement actions - two warning letters per year. Ecology assumes enforcement guidance would be necessary. Ecology estimates 0.10 FTE EP-4 in FY 2027 to develop an enforcement guidance document.

Section 14 would require producers to use markings to identify the producer of the battery beginning January 1, 2028. Beginning January 1, 2030, batteries would need to be marked to identify the chemistry of the battery, including an indication that the battery should not be disposed of as household waste. Ecology assumes no federal laws regarding battery marking would occur within the timeframe of this fiscal note, so rulemaking to maintain consistency would not be required. Ecology would monitor actions by other states and the federal government regarding battery marking requirements. Ecology estimates 0.03 FTE EP-4 beginning in FY 2024 and ongoing each fiscal year thereafter to monitor and track battery policies in other jurisdictions.

## LARGE FORMAT AND OTHER BATTERY CATEGORIES (Sections 16 and 17)

### Assessment of Large Format Batteries and Other Non-Covered Battery Categories

Section 16 would require Ecology to conduct an assessment on end-of-life management for other battery categories, including: large format batteries, batteries contained in medical devices, and batteries embedded in products (not intended or designed to be easily removed) by July 1, 2027. Ecology would be required to consult with Commerce and other interested parties. For the battery categories listed, the assessment must consider the current economic value and reuse or recycling potential, the current management methods, challenges posed by their management, and which criteria of the chapter should apply to them. The assessment would also inform rulemaking prescribed in Section 17. Ecology would issue a request for proposal to hire a consultant and oversee the work, including reviewing the assessment and sharing it with interested parties. Ecology assumes a consultant would be hired by January 1, 2026, to conduct the assessment.

Work to prepare a contract, oversee the contractor, and complete the assessment would require 0.30 FTE of an EP-4 each year in FY 2026 and FY 2027. Additionally, Ecology estimates 0.10 FTE of an ES-4 each year in FY 2026 and FY 2027 to assist with the assessment by providing data to the consultant and coordinating review of documents.

Based on previous experience with solid waste management assessments, Ecology estimates \$70,000 in FY 2026, and \$280,000 in FY 2027 for a professional services contract to prepare and summarize research and recommendations for the assessment, shown in Object C.

Section 16 would require Ecology to submit a report to the legislature by October 1, 2027, summarizing the findings of the assessment.

An EP-4 (0.10 FTE in FY 2028) would provide final policy review, coordinate internal reviews, publish the final report, and submit the report to the Legislature.

A CC-5 (0.05 FTE in FY 2028) would provide communications review for content clarity and key messages.

A CC-2 (0.05 FTE in FY 2028) would provide accessibility and plain talk review of the report.

An EP-5 (0.05 FTE in FY 2028) would advise the report writer on legislative report requirements and coordinate with the agency Governmental Relations Office.

An RA-3 (0.05 FTE in FY 2028) would assist the report writer in scheduling and implementing the report review and submittal.

Section 17 would authorize Ecology to adopt rules to require the establishment of stewardship program participation requirements for large format and other non-covered battery categories. Ecology assumes the assessment required under section 16 would recommend large format and other battery categories be incorporated into the program. Ecology would need to amend the existing rules to make that happen. Ecology assumes a two-year rulemaking of moderate complexity and controversy would be required for this second rule. Ecology assumes two public meetings when developing draft rule language with a webinar option, and two public hearings for the proposed rule language. Ecology assumes rulemaking would begin July 1, 2027 (FY 2028) and be completed by June 30, 2029 (FY 2029). Once rulemaking is complete, Ecology assumes a new plan submittal by a SO to cover large format and potentially other batteries.

As part of rulemaking, Ecology would need to evaluate any existing battery management systems for large format and other battery categories to see if those programs achieve a 95% collection rate and to determine whether certain batteries can be excluded from the rule. Upon completion of rulemaking, Ecology assumes a plan submittal to cover large format batteries. Large format batteries would be required to participate in a program by January 1, 2031 (FY 2031).

The following staff needs are identified for this rulemaking:

A rule coordinator would oversee the rulemaking process to comply with the Administrative Procedures Act; prepare rule development and communication plan; prepare and file CR-101; coordinate and conduct three meetings and public outreach; file CR-102 and hold three public hearings with webinars access; work with economist on economic analysis; work with technical staff to finalize rule language; and file the CR-103 for adoption. This is estimated to require 0.10 FTE Regulatory Analyst 3 (RA-3) each year in FY 2028 and FY 2029.

A rulemaking lead would provide technical support to rule coordinator; identify interested and impacted parties; coordinate meetings and public outreach; draft rule language; write rule related documents such as responsiveness summaries and rule development documents, develop enforcement guidance documents, prepare information for the economic analysis, and respond to public questions. This is estimated to require 0.50 FTE EP-4 each year in FY 2028 and FY 2029.

A subject matter expert would advise on the technical aspects of battery collection and recycling such as battery chemistries and types; various recycling technologies; constituents and products from battery recycling; and U.S.D.O.T. regulations regarding the transport of batteries. This is estimated to require 0.25 FTE Environmental Specialist 5 (ES-5) each year in FY 2028 and FY 2029.

Technical support staff would advise on the universal waste rules for the management of batteries and any other battery management requirements under the state's dangerous waste regulation WAC 173-303. This is estimated to require 0.25 FTE RA-3 each year in FY 2028 and FY 2029.

Technical support staff would assist with HEAL Act requirements. This is estimated to require 0.25 FTE EP-3 each year in FY 2028 and FY 2029.

A communications lead would coordinate an outreach strategy and media engagement. This would require 0.05 FTE Communications Consultant 5 (CC-5) each year in FY 2028 and FY 2029.

A website developer would coordinate with the rulemaking lead on a public website for the rulemaking process. This would

require 0.05 FTE Communications Consultant 3 (CC-3) each year in FY 2028 and FY 2029.

An outreach coordinator would organize public meetings, prepare informational materials, and respond to questions throughout the rulemaking process. This would require a Community Outreach & Environmental Education Specialist 3 (COEES-3) 0.10 FTE each year in in FY 2028 and FY 2029.

Economic research staff would complete economic and regulatory analysis in support of the rule as required by law. This is estimated to require 0.20 FTE of an Economic Analyst 3, and 0.05 FTE of a Regulatory Analyst 2 in FY 2029.

Two public meetings would be held in FY 2028, and two public hearings would be held in FY 2029. Cost estimates include facility rental costs, estimated at \$1,000 per meeting for a total of \$2,000 in FY 2028 and \$2,000 in FY 2029 in Object E.

Upon consultation with the Attorney General Office (AGO), Ecology assumes 0.05 FTE Assistant Attorney General (AAG) and 0.03 FTE Legal Assistant 3 (LA) for a total cost of \$14,000 each year in FYs 2028 and 2029.

### ELECTRIC VEHICLE BATTERY RECOMMENDATIONS & REPORT (Section 18)

Section 18 would require Ecology to submit a preliminary report to the appropriate committees of the Legislature with policy recommendations for the collection and recycling of EV batteries by November 30, 2023, and a final report by April 30, 2024. In developing the recommendations, Ecology would solicit input from various stakeholders as well as examine best practices in other states and jurisdictions.

Ecology would assemble a stakeholder team of interested parties in accordance with the requirements of this section, which we would coordinate with through the duration of this project. Because Ecology does not currently have the expertise or capacity to prepare the report, Ecology assumes a third-party consultant would be hired by September 2023. The consultant would conduct the necessary research, including recommendations from other jurisdictions such as the California's Environmental Protection Agency's Lithium-ion Car Battery Recycling Advisory Group Final Report, solicit input from the stakeholders, summarize the findings, and prepare the legislative report. The stakeholder team would review the report and findings and recommendations prior to submittal to the legislature by April 30, 2024.

Note: Ecology assumes the preliminary report could not be available by November 30, 2023. Ecology estimates the minimum time necessary to develop the report is seven months after the consultant begins based on the level of research, stakeholder involvement, and time needed to develop policy recommendations and draft the legislative report. Ecology assumes a report of the final recommendations would be completed by April 30, 2024.

Based on experience coordinating a stakeholder group and contract for a legislative report, Ecology estimates 0.30 FTE EP-5 FY 2024 would be required to coordinate with the stakeholder team, administer the contracting process, provide policy review of the report, and coordinate review of the legislative report and recommendations.

In addition to the project lead, technical guidance, support for stakeholder team coordination, and preparation of the report for submittal to the legislature, would require the following:

Technical support staff would advise on the universal waste rules for the management of batteries and any other battery management requirements under the state's dangerous waste regulation chapter 173-303 WAC. This is estimated to require 0.20 FTE RA-3 in FY 2024.

A COEES-3 (0.10 FTE in FY 2024) would schedule and facilitate stakeholder group meetings, prepare informational materials, and coordinate responses to comments and questions.

A CC-5 (0.01 FTE in FY 2024) would provide communications review for content clarity and key messages.

A CC-2 (0.01 FTE in FY 2024) would provide accessibility and plain talk review of the report.

An EP-5 (0.01 FTE in FY 2024) would advise the report writer on legislative report requirements and coordinate with the agency Governmental Relations Office.

An RA-3 (0.01 FTE in FY 2024) would assist the report writer in scheduling and implementing the report review and submittal.

The estimated contract cost for the third party consultant is \$180,000 in FY 2024, based on cost estimates provided by Product Stewardship Initiative for a similar analysis required by Department of Commerce in proposed 2022 legislation (SSB 5526). The estimate assumed compliance with the HEAL act and drafting of the legislative report.

Ecology assumes an ongoing incremental increase in workload for plan review and approval, stewardship program implementation, and technical assistance once large format batteries are added to the program. Other than the adjustment to stewardship plan review timing described above, the workload changes are indeterminate at this time. Adjustments to budget authority would be needed for these changes, for which Ecology would plan to submit budget requests in the future as appropriate.

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

RULEMAKING (Section 11) is estimated to require:

FY 2024: \$297,829 and 2.09 FTEs

FY 2025: \$446,708 and 3.16 FTEs

FY 2026: \$99,166 and 0.71 FTEs

FY 2027: \$3,000 and 0 FTEs

REVIEW AND APPROVE PLANS AND ANNUAL REPORTS (Sections 5 and 10) is estimated to require:

FY 2027: \$66,948 and 0.48 FTEs

FY 2029: \$52,533 and 0.37 FTEs

TECHNICAL ASSISTANCE, PROGRAM IMPLEMENTATION, COMPLIANCE (Sections 5, 8, 9, 12, 14, and 16) is estimated to require:

FY 2024: \$65,859 and 0.49 FTEs

FY 2025: \$123,128 and 0.9 FTEs

FY 2026: \$151,205 and 1.07 FTEs

FY 2027: \$260,290 and 1.78 FTEs

FY 2028: \$183,858 and 1.29 FTEs

FY 2029: \$180,576 and 1.27 FTEs

LARGE FORMAT AND OTHER BATTERY CATEGORIES (Sections 16 and 17) is estimated to require:

FY 2026: \$132,859 and 0.46 FTEs

FY 2027: \$342,859 and 0.46 FTEs

FY 2028: \$306,918 and 2.13 FTEs

FY 2029: \$298,178 and 2.07 FTEs

ELECTRIC VEHICLE BATTERY RECOMMENDATIONS & REPORT (Section 18) is estimated to require:

FY 2024: \$286,676 and 0.74 FTEs

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

FY 2024: \$650,364 and 3.32 FTEs  
 FY 2025: \$569,836 and 4.06 FTEs  
 FY 2026: \$383,230 and 2.24 FTEs  
 FY 2027: \$673,097 and 2.73 FTEs  
 FY 2028: \$490,776 and 3.42 FTEs  
 FY 2029: \$531,287 and 3.7 FTEs

Notes on costs by object:

Salary estimates are current biennium actual rates at Step L.

Benefits are the agency average of 36% of salaries.

Professional Services Contracts includes estimated costs for a consultant to prepare recommendations regarding management of electric vehicle batteries, estimated to be \$180,000 in FY 2024, and a contract to prepare an assessment for large format batteries, estimated to be \$70,000 in FY 2026 and \$280,000 in FY 2027.

Goods and Services are the agency average of \$5,224 per direct program FTE and includes facility costs for rulemaking meetings, estimated to be \$1,000 in FY 2024, \$5,000 in FY 2025, \$2,000 each year in FY 2028 and FY 2029. Also included are AGO estimated costs of \$14,000 each year in FY 2024, FY 2025, FY 2028, and FY 2029, and \$3,000 each year in FY 2026 and FY 2027.

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

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

Agency Administrative Overhead is calculated at the federally approved agency indirect rate of 28.75% of direct program salaries and benefits, and is shown as object 9. Agency Administrative Overhead FTEs are included at 0.15 FTE per direct program FTE, and are identified as Fiscal Analyst 2 and IT App Development - Journey.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
23P-1	Model Toxics Control Operating Account	State	650,364	569,836	1,220,200	383,230	0
NEW-6	Responsible Battery Management Account	Non-Appr opriated	0	0	0	673,097	1,022,063
<b>Total \$</b>			650,364	569,836	1,220,200	1,056,327	1,022,063

### III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.3	4.1	3.7	2.5	3.6
A-Salaries and Wages	247,155	298,824	545,979	380,670	537,785
B-Employee Benefits	88,977	107,577	196,554	137,043	193,607
C-Professional Service Contracts	180,000		180,000	350,000	
E-Goods and Other Services	30,096	37,439	67,535	28,567	64,334
G-Travel	4,518	5,516	10,034	6,752	9,675
J-Capital Outlays	2,977	3,639	6,616	4,454	6,388
9-Agency Administrative Overhead	96,641	116,841	213,482	148,841	210,274
<b>Total \$</b>	650,364	569,836	1,220,200	1,056,327	1,022,063



**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
COM OUTREACH & ENV ED SP 3	63,216	0.2	0.1	0.1	0.0	0.1
COMM CONSULTANT 2	60,156	0.0		0.0		0.0
COMM CONSULTANT 3	66,420	0.2	0.2	0.2	0.1	0.1
COMM CONSULTANT 5	87,144	0.1	0.1	0.1	0.0	0.1
ECONOMIC ANALYST 3	85,020		0.3	0.1		0.1
ENVIRONMENTAL PLANNER 3	80,952	0.2	0.5	0.4	0.1	0.3
ENVIRONMENTAL PLANNER 4	89,292	0.8	1.3	1.1	1.2	1.5
ENVIRONMENTAL PLANNER 5	98,592	0.3		0.2		0.0
ENVIRONMENTAL SPEC 4	73,260				0.1	
ENVIRONMENTAL SPEC 5	80,952	0.6	0.8	0.7	0.1	0.3
FISCAL ANALYST 2		0.3	0.4	0.3	0.2	0.3
IT APP DEV-JOURNEY		0.1	0.2	0.2	0.1	0.2
IT APP DEV-SR/SPECIALIST	115,824				0.0	
REGULATORY ANALYST 2	82,896		0.1	0.1		0.0
REGULATORY ANALYST 3	93,840	0.5	0.4	0.4	0.6	0.6
<b>Total FTEs</b>		3.3	4.1	3.7	2.5	3.6

**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.*

Rulemaking authority is provided in sections 5, 7, 8, 11, 14, and 17, to implement various components of the bill. Ecology assumes section 11 would provide the authority necessary to implement the requirements of the entire bill.

Section 11 would authorize Ecology to adopt rules for the purpose of implementing, administering, and enforcing this chapter. Ecology assumes rules would be required for enforcement.

## 5144 E2SSB - Department of Ecology Fiscal Note Expenditure Overview

By Section

<b>OPERATING BUDGET</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>	<b>FY 2029</b>
<b>RULEMAKING (Section 11)</b>	<b>297,829</b>	<b>446,708</b>	<b>99,166</b>	<b>3,000</b>	<b>0</b>	<b>0</b>
Total FTEs	2.1	3.2	0.7	0.0	0.0	0.0
Staff costs	282,829	427,708	96,166	0	0	0
Rulemaking, Meeting Facilities	1,000	5,000	0	0	0	0
Rulemaking, AGO Costs	14,000	14,000	3,000	3,000	0	0
<b>REVIEW AND APPROVE PLANS AND ANNUAL REPORTS (Sections 5 and 10)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>66,948</b>	<b>0</b>	<b>52,533</b>
Total FTEs	0.0	0.0	0.0	0.5	0.0	0.4
Staff costs	0	0	0	66,948	0	52,533
<b>TECHNICAL ASSISTANCE, PROGRAM IMPLEMENTATION, COMPLIANCE (Sections 5, 8, 9, 12, 14, and 16)</b>	<b>65,859</b>	<b>123,128</b>	<b>151,205</b>	<b>260,290</b>	<b>183,858</b>	<b>180,576</b>
Total FTEs	0.5	0.9	1.1	1.8	1.3	1.3
Staff costs	65,859	123,128	151,205	260,290	183,858	180,576
<b>LARGE FORMAT AND OTHER BATTERY CATEGORIES (Sections 16 and 17)</b>	<b>0</b>	<b>0</b>	<b>132,859</b>	<b>342,859</b>	<b>306,918</b>	<b>298,178</b>
Total FTEs	0.0	0.0	0.5	0.5	2.1	2.1
Staff costs	0	0	62,859	62,859	290,918	282,178
Contract for Large Batteries Assessment	0	0	70,000	280,000	0	0
Rulemaking, Meeting Facilities	0	0	0	0	2,000	2,000
Rulemaking, AGO Costs	0	0	0	0	14,000	14,000
<b>ELECTRIC VEHICLE BATTERY RECOMMENDATIONS &amp; REPORT (Section 18)</b>	<b>286,676</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Total FTEs	0.7	0.0	0.0	0.0	0.0	0.0
Staff costs	106,676	0	0	0	0	0
Section 18 Contract for Report	180,000	0	0	0	0	0
<b>ECOLOGY TOTAL OPERATING FTEs</b>	<b>3.3</b>	<b>4.1</b>	<b>2.2</b>	<b>2.7</b>	<b>3.4</b>	<b>3.7</b>
<b>ECOLOGY TOTAL OPERATING EXPENDITURES</b>	<b>650,364</b>	<b>569,836</b>	<b>383,230</b>	<b>673,097</b>	<b>490,776</b>	<b>531,287</b>

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

**Bill Number:** 5144 E 2S SB

**Title:** Batteries/environment

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

### Legislation Impacts:

- Cities:
- Counties: Indeterminate increase in expenditures and revenues for county solid waste collection programs
- Special Districts: Indeterminate increase in expenditures and revenues for public utility districts, solid waste disposal districts, and metropolitan municipal districts that operate solid waste collection programs
- 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: The amount of staff time required for local governments to collaborate with the Department of Ecology, and the effects on local government waste management collection protocols as a result of battery stewardship organization plans.

### 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: Chelsea Mickel	Phone: 518-727-3478	Date: 03/15/2023
Leg. Committee Contact:	Phone:	Date: 03/14/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 03/15/2023
OFM Review: Lisa Borkowski	Phone: (360) 742-2239	Date: 03/15/2023

## Part IV: Analysis

### A. SUMMARY OF BILL

*Description of the bill with an emphasis on how it impacts local government.*

#### CHANGES BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:

- Specifies that the environmental liability coverage that battery stewardship organizations are subject to be commercially practicable.
- Clarifies that a registered producer of covered batteries included in a covered battery-containing product must provide written certification of its membership in a registered battery stewardship organization to both the producer of the covered battery-containing product and the battery stewardship organization.
- Amends the definition of "recycling efficiency rate" to mean the ratio of the weight of covered battery components and materials recycled by a program operator from covered batteries to the weight of those covered batteries collected by the program operator.
- Clarifies that a "retailer" is a person who sells covered batteries or battery-containing products or offers or otherwise makes available covered batteries or battery-containing products to a customer, including other businesses, for use by the customer in this state.
- Requires a battery stewardship organization to submit a plan for covered portable batteries to the department of ecology by July 1, 2026.
- Specifies that demonstrable costs that a battery stewardship organization must reimburse to a local government as a result of a local government facility or solid waste handling facility serving as a collection location be defined by rules adopted by the department of ecology.
- Removes the inclusion of curbside services as part of existing public and private waste collection services and facilities that battery stewardship programs must use, where cost-effective, mutually agreeable, and otherwise practicable, to meet program collection requirements.
- Specifies that the department of ecology fees must allocate costs between battery stewardship organizations, if applicable.
- Provides that a battery stewardship organization may bring a civil action against a producer of a recalled battery to recover costs associated with handling a recalled battery.
- Specifies that a producer must certify that marking requirements have been met to the retailer if the retailer is not the customer.

#### SUMMARY OF CURRENT BILL:

This bill would require producers of covered batteries and battery-containing products to participate in a stewardship organization that plans and provides for battery collection and end-of-life management, beginning January 1, 2027, for portable batteries and January 1, 2029, for medium format batteries.

- Directs the Department of Ecology (Ecology) to assess the opportunities and challenges of managing batteries other than covered portable and medium-sized batteries, and authorizes Ecology to adopt rules taking effect no earlier than 2031 to establish product stewardship program participation responsibilities applicable to producers of batteries and those battery containing products.
- Directs Ecology to report policy recommendations to the Legislature related to the collection and management of electric vehicle batteries by April 2024.
- Prohibits retailers from selling covered batteries whose producers do not participate in an approved stewardship plan.
- Requires battery stewardship organizations implementing a stewardship plan to establish performance goals, follow program funding criteria, meet collection and management standards, conduct public education and outreach, and report on program operations to Ecology.
- Requires battery disposal to occur via collection locations provided by a battery stewardship organization or other responsible battery management arrangements.
- Establishes labeling requirements for batteries sold in Washington.

## **B. SUMMARY OF EXPENDITURE IMPACTS**

*Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.*

### **CHANGES IN EXPENDITURE IMPACTS BETWEEN THIS VERSION AND PREVIOUS BILL VERSION:**

In comparison to the previous version of the bill, the engrossed second substitute version does not change expenditure impacts on local governments. The definitions amended in this version of the bill would not have fiscal impacts on local governments.

### **EXPENDITURE IMPACTS OF CURRENT BILL:**

This bill would result in an indeterminate increase in local government expenditures. These costs will be associated with new facilities, staff, training, education, insurance and liability costs. In addition, waste collection protocols may need to be changed. These costs are detailed below.

This legislation would require any increase in local government expenditures to be reimbursed by Battery Stewardship Organizations (BSO) revenue, further explained in the revenue section of this fiscal note.

According to the Washington State Association of Counties (WSAC), solid waste collection programs (which are managed by the counties) would incur additional costs and work, dependent on the plan submitted by the battery stewardship organization (BSO). Since the BSO does not have to submit its plan until July 1, 2026, the details of the plan cannot be determined at this time, so the impacts to counties cannot be determined within this fiscal note.

However, impacts to counties could include the following:

- If battery collection sites are located at solid waste facilities, such as transfer stations or household hazardous waste collection sites, these facilities and their staff would need to spend extra space, time, and train new staff on the collection of these batteries.
- If the batteries needed to be stored somewhere, the county may need to purchase additional storage facilities. These properties may need certain specifications to safely store these batteries.
- The county may need to hire additional staff to assist in the administration of battery collection and the collaboration with the BSO.
- In addition, there could be an increase in insurance and liability costs, given the potentially hazardous nature of the batteries collected.

Section 15 would ban the disposal of covered batteries in waste containers or mixed non-battery recycling containers at the point of generation beginning July 1, 2027, for portable batteries and July 1, 2029, for medium format batteries, or the first date on which an approved plan begins to be implemented, whichever comes first, and beginning July 1, 2031, for large format batteries. Local solid waste disposal programs may need to change waste collection protocol, and potentially do work to notify and educate the public on this ban. However, this work may be covered by the work of the BSO.

Section 18 requires Ecology to solicit input from local governments when developing their policy recommendations regarding the collection and management of electric vehicle batteries. It is unknown whether the scope of local government collaboration with Ecology would include in-person meetings and travel, or if collaboration would be mostly remote. Travel and meeting costs would vary depending on the number of local staff representatives attending, meeting location, distance traveled, the number and length of meetings, and the local per diem and hotel costs. For discussion purposes, the Local Government Fiscal Note Program Travel Cost Model estimates that if a one-day meeting was held in Olympia, it would cost \$334 for a local government staff member from Seattle to attend. This includes a \$74 per diem, \$138 hotel stay, and a mileage cost reimbursement. Due to the uncertainties in the scope of collaboration and meeting requirements, these additional expenditure costs to local governments would be indeterminate.

## C. SUMMARY OF REVENUE IMPACTS

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

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

In comparison to the previous version of the bill, the engrossed second substitute version does not change revenue impacts on local governments.

### REVENUE IMPACTS OF CURRENT BILL:

This legislation would require any increase in local government expenditures to be reimbursed by Battery Stewardship Organizations (BSO). The amount of revenues cannot be determined in advance and will depend upon the rules developed by Ecology, and the range and extent of local efforts to comply with requirements from the BSOs. As a result, there would be an indeterminate increase in local government revenues

Section 7 would require a battery stewardship organization to reimburse local governments for reasonable and demonstrable costs as defined by rules adopted by the Ecology. WSAC assumes this cost reimbursement would be equivalent to county expenditures, but this amount cannot be determined at this time.

### SOURCES

Association of Washington Cities

Department of Commerce

Department of Ecology

Senate Bill Analysis, E2SSB 5144, Environment, Energy & Technology Committee, (2023)

Senate Bill Report, SSB 5144, Environment, Energy & Technology Committee, (2023)

House Bill Report, HB 1896, Environment & Energy Appropriations Committee, (2022)

Local Government Fiscal Note, 2SSB 5144, (2023)

Local Government Fiscal Note, SSB 5144, (2023)

Local Government Fiscal Note, SB 5144, (2023)

Local Government Fiscal Note, HB 1896, (2022)

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

Washington State Association of Counties

Washington Public Utility District Association