

SF3561 - 1E - Packaging Waste and Cost Reduction Act

Chief Author: **Kelly Morrison**
 Committee: **Legacy and Natural Resources**
 Date Completed: **3/13/2024 10:05:18 AM**
 Lead Agency: **Pollution Control Agency**
 Other Agencies:
 Administrative Hearings

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings		-	-	-	-	-
Administrative Hearings		-	-	-	-	-
Pollution Control Agency		-	-	-	-	-
Restrict Misc. Special Revenue		-	-	-	-	-
State Total						
Administrative Hearings		-	-	-	-	-
Restrict Misc. Special Revenue		-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Pollution Control Agency	-	-	-	-	-
Restrict Misc. Special Revenue	-	-	5.3	7.3	6.8
Total	-	-	5.3	7.3	6.8

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karl Palm **Date:** 3/13/2024 10:05:18 AM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-	-
Administrative Hearings	-	-	-	-	-	-
Pollution Control Agency	-	-	-	-	-	-
Restrict Misc. Special Revenue	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Administrative Hearings	-	-	-	-	-	-
Administrative Hearings	-	-	-	-	12	-
Pollution Control Agency	-	-	-	-	-	-
Restrict Misc. Special Revenue	-	-	1,784	1,448	1,210	
Total	-	-	1,784	1,460	1,210	
Biennial Total			1,784		2,670	
2 - Revenues, Transfers In*						
Administrative Hearings	-	-	-	-	-	-
Administrative Hearings	-	-	-	-	12	-
Pollution Control Agency	-	-	-	-	-	-
Restrict Misc. Special Revenue	-	-	1,784	1,448	1,210	
Total	-	-	1,784	1,460	1,210	
Biennial Total			1,784		2,670	

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State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Restrict Misc. Special Revenue	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Restrict Misc. Special Revenue	-	-	5.3	7.3	6.8
Total	-	-	5.3	7.3	6.8

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Restrict Misc. Special Revenue	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Restrict Misc. Special Revenue	-	-	1,784	1,448	1,210
Total	-	-	1,784	1,448	1,210
Biennial Total			1,784		2,658
2 - Revenues, Transfers In*					
Restrict Misc. Special Revenue	-	-	1,784	1,448	1,210
Total	-	-	1,784	1,448	1,210
Biennial Total			1,784		2,658

Bill Description

A bill for an act relating to solid waste; establishing the Packaging Waste and Cost Reduction Act; authorizing rulemaking and proposing coding for new law in Minnesota Statutes 115A.

The bill defines terminology and establishes a statewide producer responsibility program for packaging and paper products in accordance with the act that encourages packaging redesign to reduce risk to environmental and human health. It should reduce generation of covered materials waste through waste reduction, reuse, recycling, and composting and by providing for agreements to collect, transport, and process used covered materials for reuse, recycling, and composting.

By January 1, 2025 and annually thereafter, a producer responsibility organization must register with the commissioner inclusive of all member producers that will operate under the stewardship plan administered by the organization. An annual registration fee must be paid for the following year; the fee must be set at an amount anticipated to not exceed the commissioner's estimate of the costs required to perform duties described in 115A.1445. Refunds, credits or additional payments may be used to reconcile the fees collected with agency costs incurred. By October 1, 2028 and annually thereafter, the agency must notify registered producer responsibility organizations in writing of the amount of the fee for the following year.

By October 1, 2025, and annually until the first stewardship plan is approved, the commissioner must provide written notice to the initial producer responsibility organization registered under this section of the commissioner's estimate of the cost of conducting the initial needs assessment and the commissioner's costs to administer this act during the period prior to plan approval. The producer responsibility organization must remit payment in full for these costs to the commissioner within 45 days of receipt of this notice. The producer responsibility organization may charge each member producer to cover the cost of its implementation fee according to each producer's unit-, weight-, volume-, or sales-based market share or by another method it determines to be an equitable determination of each producer's payment obligation.

Section 5 requires the establishment of the producer responsibility advisory board to advise the commissioner and producer responsibility organization regarding the implementation of the act. The bill details membership requirements and term limits. The 18 member board must meet at least twice per year and members must be compensated in accordance with section 15.059, subdivision 3. The commissioner must provide administrative and operating support to the advisory board and may contract with a third-party facilitator to assist in administering the activities of the board. The initial membership of the board must be appointed by January 1, 2025.

The commissioner must:

- adopt rules to implement this act
- complete a third party initial needs assessment by December 31, 2026 and to update the needs

assessment every 5 years thereafter,

- establish and support a Producer Responsibility Advisory Board by January 1, 2025,
- approve stewardship plans and amendments to plans within 120 days of receipt of the plan,
- provide a list of cover materials deemed recyclable or compostable to all producer responsibility organizations by March 1, 2027 and every 3 years thereafter,
- and make materials and products available via the web
- —review and approve annual reports from producer responsibility organizations, starting in 2031
- After 2038, commissioner may establish additional statewide requirements for the amount of covered materials that must be recycled or composted, number of units of packaging returned to an established reuse system and weight of cover materials that must be source reduced.
- Enforce the act as provided under the section and sections of 115.071 and 116.072
- By January 1, 2032, contract with an independent third party to conduct a study of the recycling, composting, and reuse facilities operating in the state.
- By January 1, 2032 in consultation with the commissioners of health and natural resources, must contract with an independent third party to conduct a study to identify the contribution of covered products to litter and water pollution in Minnesota.
- By October 15, 2034 and every five years thereafter, the commissioner must submit a report to the governor and legislative committees with jurisdiction over solid waste.

The board must:

- convene its initial meeting by March 1, 2025
- Consult with the commissioner regarding the scope of the needs assessment
- Advise on development of stewardship plans and review draft plan prior to submittal
- Submit comments

Producer responsibility organization must:

- Register annually
- Submit a stewardship plan by March 1, 2028 and every 5 years thereafter, including performance targets, methods of collection for covered materials types, plans for measuring success, budgeting, fees, needed infrastructure investments, how the program will be self sustaining and activities to be undertaken over the next 5 years.
- Propose performance targets based on the needs assessment that will meet the statewide requirements and be included in the stewardship plan.
- Collect producer fees in accordance with statute
- Submit reports required by statute
- Responsible for meeting the following requirements
 - o By 2033, 65% of the covered materials in the state must be recycled or composted, 10% of the number of units of packaging must be returned to an established reuse system, weight of covered materials must be source reduced by 15%.

- o By 2038, 75% of the covered materials in the state must be recycled or composted, 20% of the number of units of packaging must be returned to an established reuse system, weight of covered materials must be source reduced by 25%.
- By July 1, 2031 and each May 1 thereafter, the organization must submit written report for materials from the previous year as described in statute.

Producer responsibilities

- Producers must be a member of a producer responsibility organization by January 1, 2025.
- After January 1, 2029 no producer may introduce cover materials into the state unless the producer operates under a written agreement with a producer responsibility organization to operate under an approved stewardship plan
- After January 1, 2032, no producer may introduce cover material into the state unless the covered materials are reusable and included in an established reuse system, are included on the recyclables or compostables list, or are included in an alternative collection system approved as a part of a stewardship plan.

Service Provider Responsibilities:

- To collect and manage covered materials in a state pursuant to contractual agreements with a producer responsibility organization
- Complete annual sorts of compostable materials

Assumptions

Assumes one round of rulemaking (medium sized rule effort) spanning FY25 and FY26.

Agency assumes the costs for the required third party needs assessment to align with costs for similar reports.

Total staff for FY25 (5.3 FTEs, 9 positions): 1.5 FTE for rulemaking, 0.8 FTE for program development/technical assistance and 1.5 FTE for IT development support and 0.5 FTE for administrative support for the board. Additionally, 0.5 FTE for legal assistance and 0.5 FTE for contracting assistance are included for program policy development and review and executing the needs assessment work.

Total staff for FY26 (7.3 FTEs, 8 positions), 0.5 FTE for rulemaking, 1 FTE would focus on needs assessments and plan approvals, 0.8 FTE would continue with program development/technical assistance, 1 FTE for board support and associated tasks, 3 FTE for IT development support, and 1 FTE for compliance and enforcement efforts.

Total staff for FY27 (6.8 FTEs, 7 positions), 1 FTE would focus on needs assessments and plan approvals, 0.8 FTE would continue with program development/technical assistance, 1 FTE for board support and associated tasks, 3 FTE for IT development support, and 1 FTE for compliance and enforcement efforts.

FY28 and beyond: the 1 FTE for program IT development support would transition to other duties to support the program. The remaining 2 IT positions are expected to end with the close of FY27 and will not be needed moving forward.

Expenditure and/or Revenue Formula

Current estimated cost for the third party needs assessment is \$850,000. (FY25)

Program staff not associated with rulemaking or IT:

- \$175,000 x 2.3 in FY25 = \$402,500 (0.8 FTE for program development/technical assistance and 0.5 FTE for administrative support for the board. Additionally, 0.5 FTE for legal assistance and 0.5 FTE for contracting assistance are included for program policy development and review and executing the needs assessment work)

- $\$175,000 \times 3.8 \text{ FTE} = \$665,000$ in FY26 (1 FTE would focus on needs assessments and plan approvals, 0.8 FTE would continue with program development/technical assistance, 1 FTE for board support and associated tasks, and 1 FTE for compliance and enforcement efforts)
- $\$175,000 \times 3.8 \text{ FTE} = \$665,000$ in FY27 (1 FTE would focus on needs assessments and plan approvals, 0.8 FTE would continue with program development/technical assistance, 1 FTE for board support and associated tasks, and 1 FTE for compliance and enforcement efforts)

Rule making costs are assumed as follows:

Assume the rulemaking is a medium sized rulemaking. Total of \$375,940. Costs would be split between FY25 and FY26.

- MPCA program staff, rule coordinator, and legal costs incurred in FY25 and FY26; Office of Administrative Hearing and most State Register and miscellaneous costs are placed in FY26.
- Program staff: $175,000 \times 1 \text{ FTE} = \$175,000$ (FY25)
- Rule coordinator: $175,000 \times 1.0 \text{ FTE} = \$175,000$ (half in FY25, half in FY26)
- Legal: $\$84.13/\text{hr} \times 86 \text{ hr} = \$7,235$ in FY26
- OAH: $\$245/\text{hr} = 50 \text{ hr} = \$12,250$ in FY26
- State Register = \$3,705 in FY26
- Hearing room, communication and general expenses = \$2,750 in FY26

Additional information technology costs will be incurred to create an electronic product stewardship system to all for a universal service to accept plans as data, have them signed electronically, and begin the review process with electronic tools based on the rules developed. Costs are assumed as follows:

- Program staff to focus on data needs, analysis, testing
 $\$175,000/\text{FTE} = 0.5 \text{ FTE FY25, } 1.0 \text{ FTE FY26 and } 1.0 \text{ FTE in FY27}$
- MPCA data staff to complete analysis, build requirements, and test reports for internal systems
 $\$175,000/\text{FTE} = 0.5 \text{ FTE FY25, } 1.0 \text{ FTE FY26 and } 1.0 \text{ FTE in FY27}$
- Software contracting costs = \$125,000 in FY26
- MNIT developer staff $\$175,000/\text{FTE} = 0.5 \text{ FTE FY25, } 1.0 \text{ FTE FY26, and } 1.0 \text{ FTE in FY27}$

Board support is assumed for 18 member board at three meetings per year at \$20,000 per year FY26 & FY27. One meeting is assumed in FY25. (\$6,667)

- Assumes all members will incur the following costs per meeting, with 3 meetings per fiscal year
- 2 days per diem ($18 \times 2 \times \$43/\text{day}$) = \$1,548
- Hotel at \$120/night
- Mileage at 150 miles/\$0.67/mile = \$101
- \$55/day

The annual cost of 1.0 FTE is \$175,000 in FY2023-2027. Annual costs for 1.0 FTE include salary, fringe, and non-specialized employee support costs (work space, computer and office supplies, office equipment, local travel, etc.)

Long-Term Fiscal Considerations

There are several large reports and program review processes that are in the bill in the out years. These costs are similar to the current costs for agency activities and will be covered by the fees incurred by the producer responsibility organization. The FTE number will go down in FY28, it will be reduced by 2 FTE as the IT projects are completed; leaving 5 program staff for the out years.

Local Fiscal Impact

The intent of the bill is to have the manufactures of covered materials share in the management costs of the products they produce across the life cycle of the products. Currently much of that burden falls on the local units of government to collect and manage those products at the end of their useful life. This bill will create the mechanism through a producer responsibility organization to shift help reduce those costs to local units of government.

References/Sources

Staff with knowledge of the program area were consulted in the drafting of this fiscal note.

Agency Contact:

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SF3561 - 1E - Packaging Waste and Cost Reduction Act

Chief Author: **Kelly Morrison**
 Committee: **Legacy and Natural Resources**
 Date Completed: **3/13/2024 10:05:18 AM**
 Agency: **Administrative Hearings**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Chloe Burns **Date:** 3/13/2024 9:11:04 AM
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State Cost (Savings) Calculation Details

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Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Administrative Hearings	-	-	-	-	12	-
Total	-	-	-	-	12	-
Biennial Total				-		12
2 - Revenues, Transfers In*						
Administrative Hearings	-	-	-	-	12	-
Total	-	-	-	-	12	-
Biennial Total				-		12

Bill Description

SF3561-1E establishes the Packaging Waste and Cost Reduction Act. This Act creates a statewide stewardship program for packaging and paper products meant to reduce waste and decrease risks to environmental health and human health with the help of producer responsibility organizations, which are to be overseen by the establishment of the Producer Responsibility Advisory Board. The Act requires creation of a list of recyclable and compostable materials using input from all interested parties including but not limited to producer responsibility organizations, service providers, and the advisory board. It establishes the terms of agreements between service providers and producer responsibility organizations under the Act. SF3561-1E requires producer responsibility organizations to report annually to the Minnesota Pollution Control Agency (MPCA) commissioner and requires the MPCA commissioner to report to the governor and legislature every five years on the state of the Packaging Waste and Cost Reduction Act. SF3561-1E authorizes MPCA to conduct rulemaking to implement the Packaging Waste and Cost Reduction Act and provides for enforcement of the Packaging Waste and Cost Reduction Act pursuant to Section 22.

The legislation authorizes MPCA to conduct rulemaking to implement the provisions of Sec. 19, Rulemaking.

Assumptions

The Office of Administrative Hearings (OAH) in consultation with Minnesota Management and Budget (MMB) assesses agencies the cost of services rendered to them. All agencies shall include in their budgets provisions for such assessments.

OAH has used MPCA's assumption that a medium rulemaking will be required to meet the requirements of Sec. 19, Rulemaking. Based on past practices, OAH assumes that a medium rulemaking under chapter 14 will require an estimated 50 hours of administrative law judge (ALJ) time for activity related to rulemaking procedures. Of the total rulemaking amount estimated by MPCA, \$12,250 is for the 50 hours of ALJ time for a medium rulemaking.

OAH currently bills ALJ time for rulemaking at the MMB-approved billable rate of \$245 per hour (see Minn. Stat. § 16A.126, subd. 1 (2022)).

Expenditure and/or Revenue Formula

Estimated 50 hours of ALJ time for rulemaking activities related to implementing the requirements of Sec. 19 = 50 hours x \$245/hr = \$12,250 charged to MPCA in FY2026 pursuant to the requirements of Minn. Stat. § 14.53.

Long-Term Fiscal Considerations

Costs associated with rulemaking activities are a one-time occurrence

Local Fiscal Impact

References/Sources

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