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Fiscal Note

Drafting Number:	LLS 22-0535	Date:	February 14, 2022
Prime Sponsors:	Sen. Hisey; Story Rep. Roberts; Catlin	Bill Status:	Senate Agriculture
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Bill Topic: FIRE SUPPRESSION PONDS WATER RIGHTS

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill allows a board of county commissioners to apply to the State Engineer to have certain ponds designated as fire suppression ponds. The bill increases state and local expenditures beginning in FY 2022-23.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$19,428 to the Department of Natural Resources.

Fiscal Note Status: The fiscal note reflects the introduced bill.

**Table 1
State Fiscal Impacts Under SB 22-114**

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		-	-
Expenditures	General Fund	\$19,428	\$13,146
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$2,914	\$1,972

Summary of Legislation

The bill allows a board of county commissioners to apply to the State Engineer in the Division of Water Resources in the Department of Natural Resources (DNR) for the designation of a pond within the county as a fire suppression pond. Fire suppression ponds must be inspected annually by the county and fire protection district.

Prior to application, commissioners must consult with its fire protection district to identify ponds in areas that have a high risk of wildfire damage, and perform a needs assessment on potential suppression ponds, including identifying refill mechanisms such as groundwater pumping or surface diversions. For each pond under consideration by a county, the commissioners must notify the State Engineer and all interested parties included in the substitute water supply plan notification list for the water division in which the pond is located. Interested persons have 35 days to provide comments to the county commissioners or the State Engineer concerning the proposed designation. Ponds must have existed prior to 1975 for designation, are not considered a property right, and cannot create injury to an existing vested water right.

Before May 1, 2023, the Department of Public Safety (DPS) is required to seek input from various stakeholders and adopt rules establishing criteria for counties to use to identify and evaluate potential ponds. The bill outlines the process and deadlines for the State Engineer to consider applications, issue decisions and denials, and designate, renew or rescind fire suppression ponds.

Except for addressing dam safety concerns, the state engineer must not order a pond to be drained or backfilled if it is under consideration as a fire suppression pond, has been so designated by the State Engineer, or until the Division of Fire Prevention and Control in DPS adopts rules for fire suppression ponds.

State Expenditures

The bill increases state General Fund expenditures in DNR by \$19,428 in FY 2022-23, and by \$13,146 in FY 2023-24. Expenditures are displayed in Table 2 and described below.

Table 2
Expenditures Under SB 22-114

	FY 2022-23	FY 2023-24
Department of Natural Resources		
Temporary Personal Services	-	\$13,146
Legal Services (Department of Law)	\$11,828	-
Computer Programming (OIT)	\$7,600	-
Total Cost	\$19,428	\$13,146

For FY 2022-23, the DNR will require legal services from the Department of Law to assist with rule making, estimated at 120 hours at a blended rate of \$98.57. The DNR will also purchase 40 hours at the rate of \$190 per hour for computer programming from the Office of Information Technology (OIT). These costs also include developing an application form and workflow process, and making modifications to the database user interface.

For FY 2023-24, the DNR will employ temporary staff to assist with processing applications from counties. This elevated workload is expected to recur in FY 2024-25; however, in out years, the number of county applications is anticipated to be minimal. Temporary personal services are estimated at 420 hours at \$31.30 an hour.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by \$2,914 in FY 2022-23, and by \$1,972 in FY 2023-24, which will decrease the amount of General Fund available for other purposes.

Local Government

Counties will have increased workload to conduct needs assessments and manage the application process with the State Engineer. Once fire suppression ponds have been designated, there may be additional requirements for counties to annually inspect ponds and maintain the designation. Not all counties will participate in the program, and mountain communities are more likely to have available ponds for designation. The eastern plains areas traditionally have irrigation wells, ditches, and municipal water supplies available for fire use, so applications are expected to be minimal.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2022-23, the bill requires a General Fund appropriation of \$19,428 to the Department of Natural Resources. Of this amount, \$11,828 is reappropriated to the Department of Law for legal services, and \$7,600 is reappropriated to the Office of Information Technology for computer programming.

State and Local Government Contacts

Counties	Information Technology	Law
Natural Resources	Public Safety	