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Fiscal Note

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Prime Sponsors: Sen. Danielson Bill Status: Senate HHS
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Bill Topic: INCREASING SAFETY IN ASSISTED LIVING RESIDENCES

- Summary of Fiscal Impact:
[X] State Revenue [X] TABOR Refund
[X] State Expenditure [ ] Local Government
[ ] State Transfer [ ] Statutory Public Entity

This bill establishes new requirements for assisted living residences, including processes for involuntary discharge, State Board of Health rule-making, and restrictions on and standards for these residences. The bill increases state expenditures and may increase revenue on an ongoing basis beginning in FY 2022-23.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$82,766 to the Department of Public Health and Environment.

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

Table 1
State Fiscal Impacts Under SB 22-154

Table with 4 columns: Category, Budget Year FY 2022-23, Out Year FY 2023-24, Out Year FY 2024-25. Rows include Revenue, Expenditures (General Fund, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (General Fund Reserve).

## **Summary of Legislation**

The bill establishes new requirements for assisted living residences (ALRs), including processes for involuntary discharge, State Board of Health rule-making, and restrictions and standards for ALRs. The Colorado Department of Public Health and Environment (CDPHE) licenses and regulates ALRs, and the bill increases the penalties that may be levied, and requires that action be taken against an ALR licensee for certain violations.

**Involuntary discharge notice and grievance process.** An ALR must provide written notice of an involuntary discharge of a resident at least 30 calendar days in advance of the discharge to the resident, except in certain circumstances. A resident who has been given notice of an involuntary discharge, or the state long-term care ombudsman or the local ombudsman, has the right to file a grievance to challenge the discharge with the ALR. If unsatisfied with the response from the ALR, the decision may be appealed to the CDPHE by the resident or on their behalf. If an ALR involuntarily discharges a resident without following these protocols, the ALR is subject to enforcement action by the CDPHE.

**State Board of Health.** The State Board of Health in the CDPHE must promulgate rules that:

- require ALR administrators meet certain educational, training, and experience standards on and after January 1, 2024;
- require a check of the Colorado Adult Protective Services Data System for all employees;
- require ALRs to comply with the involuntary discharge requirements of the bill; and
- establish a range of fines violations, including for activities that result in harm to a resident.

**Fines and licensing.** The bill removes the \$2,000 annual limit on civil fines and allows the CDPHE to impose intermediate restrictions or conditions on an ALR as a consequence of a life-threatening situation or serious harm to a resident. The CDPHE is required to suspend, revoke or fail to renew a license as outlined under the bill.

## **Assumptions**

This fiscal note assumes that State Board of Health rule-making will be completed in calendar year 2023, and that the subsequent provisions of the bill cannot be implemented until this is complete. In addition, this fiscal note assumes that, annually;

- 1,300 individuals will receive notices of involuntary discharge;
- 225 individuals will appeal the involuntary discharge; and
- three cases will require a hearing.

## **State Revenue**

To the extent that ALRs are assessed fines or penalties, funds in the Assisted Living Residence Improvement Fund will increase. Fee revenue is subject to TABOR.

**State Expenditures**

The bill increases state expenditures in the CDPHE by \$91,660 in FY 2022-23, \$171,470 in FY 2023-24, and \$276,173 in FY 2024-25 from the General Fund. Although the CDPHE receives fees for licensing ALRs, the Assistance Living Residence Cash Fund does not have sufficient funds to cover the provisions in the bill and fee increases are limited. Expenditures are shown in Table 2 and detailed below.

**Table 2  
 Expenditures Under SB 22-154**

<b>Cost Components</b>	<b>FY 2022-23</b>	<b>FY 2023-24</b>	<b>FY 2024-25</b>
<b>Department of Public Health and Environment</b>			
Personal Services	\$33,029	\$109,242	\$164,437
Operating Expenses	-	\$1,755	\$2,700
Capital Outlay Costs	-	\$6,200	\$6,200
Technology Costs	\$49,737	-	-
Legal Services Costs	-	\$27,600	\$55,199
Office of Administrative Courts	-	-	\$9,000
Centrally Appropriated Costs <sup>1</sup>	\$8,894	\$26,673	\$38,637
FTE – Personal Services	0.4 FTE	1.3 FTE	2.0 FTE
FTE – Legal Services	-	0.2 FTE	0.3 FTE
<b>Total</b>	<b>\$91,660</b>	<b>\$171,470</b>	<b>\$276,173</b>
<b>Total FTE</b>	<b>0.4 FTE</b>	<b>1.5 FTE</b>	<b>2.3 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Department of Public Health and Environment.** In FY 2022-23, the CDPHE requires 0.4 FTE to conduct stakeholder engagement, support the Board of Health rule-making activities and assist with computer system updates. In FY 2023-24, 1.3 FTE, increasing to 2.0 FTE in FY 2024-25, are required to engage in rule-making, review appeals and conduct hearings, and monitor ALRs for compliance. It is assumed that positions will be hired at the current average salary. Standard operating and capital outlay costs are included and personal services costs are adjusted for the General Fund paydate shift in the first year.

- **Technology costs.** In FY 2022-23, the CDPHE will require 320 hours of IT staff time to create a system to track fines and penalties. The fines and penalties system created under the bill is more robust than under current law, and necessitates the addition of six data points, flags to trigger the prevention of license issuance, and the ability to override flags. This work will be conducted by the Office of Information Technology.

- **Legal Services.** In FY 2023-24, the CDPHE requires 280 hours of legal services, billed at a rate of \$98.57 per hour, to assist in processing appeals cases. Beginning in FY 2024-25 and ongoing, 560 hours of legal services will be required. These services will be provided by the Department of Law and requires 0.2 FTE in FY 2023-24 and 0.3 FTE in FY 2024-25.
- **Office of Administrative Courts.** Beginning in FY 2024-25, it is assumed that 90 hours of time from the Office of Administrative Courts in the Department of Personnel and Administration will be required to prepare and review documentation, hearing the involuntary discharge case and issue a decision.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

## 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 \$12,415 in FY 2022-23, \$21,719 in FY 2023-24, and \$35,630 in FY 2024-25 which will decrease the amount of General Fund available for other purposes.

## Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## State Appropriations

For FY 2022-23, the bill requires a General Fund appropriation of \$82,766 to the Department of Public Health and Environment and 0.4 FTE. Of this amount, \$49,737 is reappropriated to the Office of Information Technology.

## State and Local Government Contacts

Information Technology  
Human Services

Health Care Policy and Financing  
Public Health and Environment