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Fiscal Note

Drafting Number: LLS 23-0016
Prime Sponsors: Rep. Kipp; Willford
Sen. Cutter

Date: February 14, 2023
Bill Status: House Energy & Environment
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Bill Topic: ENVIRONMENTAL STANDARDS FOR APPLIANCES

Summary of Fiscal Impact:

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

The bill sets environmental standards on certain appliances and requires the Colorado Department of Public Health and Environment to conduct compliance inspections. The bill increases state expenditures, and may increase state revenue, on an ongoing basis starting in FY 2023-24.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$1,395,734 to the Colorado Department of Public Health and Environment.

Fiscal Note Status: This fiscal note reflects the introduced bill. Due to time constraints, this analysis is preliminary and will be updated following further review and any additional information received.

Table 1
State Fiscal Impacts Under HB 23-1161

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue		-	-
Expenditures	General Fund	\$1,395,734	\$429,020
	Centrally Appropriated	\$44,226	\$56,768
	Total Expenditures	\$1,439,960	\$485,788
	Total FTE	2.5 FTE	3.1 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$209,360	\$64,353

Summary of Legislation

The bill expands the list of appliances subject to statutory Water and Energy Efficiency Standards, and requires the Colorado Department of Public Health and Environment (CDPHE) to update the list and promulgate other rules as necessary every five years beginning January 1, 2026.

The bill phases in prohibitions on the manufacture, distribution, or sale of certain fluorescent lights and heating appliances. Manufacturers of heating appliances are subject to disclosure and testing requirements. The Air Quality Control Commission in CDPHE is required to lower the emission limits for new water heaters, boilers, and certain furnaces by 2029.

The bill requires CDPHE to conduct inspections of at least five major sellers, every five years, for compliance with regulations on at least five different products from each of the three affected category of products—plumbing fixtures, fluorescent lights, and heating appliances—and deliver the findings to the Attorney General. In total, the bill requires CDPHE to inspect 75 products from 15 sellers every five years, which averages to 15 products from 3 sellers annually.

State Revenue

Civil penalties. The bill imposes a civil penalty of not more than \$2,000 for each transaction or online for-sale product listing to any person who sells or offers to sell any new consumer product that is subject to the efficiency standards. The bill requires CDPHE to inspect products for compliance and submit findings to the Attorney General, which may result in an increase in caseload and revenue from penalties. This revenue is classified as a damage award and not subject to TABOR. Given the uncertainty about the number of cases that may be pursued by the Attorney General and district attorneys, as well as the wide range in potential penalty amounts, the fiscal note cannot estimate the potential impact of these civil penalties.

State Expenditures

The bill increases state expenditures in Colorado Department of Public Health and Environment by approximately \$1.4 million in FY 2023-24 and \$500,000 in FY 2024-25, paid from the General Fund. Additionally, the bill increases workload in the Department of Law. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under HB 23-1161

	FY 2023-24	FY 2024-25
Department of Public Health and Environment		
Personal Services	\$189,886	\$253,182
Operating Expenses	\$3,240	\$4,050
Capital Outlay Costs	\$20,010	-
Legal Services	\$19,033	\$19,033
Computer Programing	\$1,163,565	\$152,755
Centrally Appropriated Costs ¹	\$44,226	\$56,768
FTE – Personal Services	2.4 FTE	3.0 FTE
FTE – Legal Services	0.1 FTE	0.1 FTE
Total Cost	\$1,439,960	\$485,788
Total FTE	2.5 FTE	3.1 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Colorado Department of Public Health and Environment. The bill impacts the CDPHE in two ways: it requires the CDPHE to promulgate rules to update environmental standards for appliances and to inspect a sample of appliances for compliance. Personnel costs associated with each of these impacts are detailed below. Standard operating and capital outlay costs are included. These costs are prorated to account for the General Fund pay date shift and the bill's effective date. Additionally, system changes and legal services are required and detailed.

- **Rulemaking.** CDPHE requires 1.0 FTE to conduct regular research around environmental standards and promulgate rules as result of the findings. The fiscal note assumes that CDPHE is not required to go through its usual stakeholder engagement process but can instead rely on work done in other states and at the federal level. Costs are associated with research done at that level.
- **Inspections.** CDPHE requires 1.0 FTE to conduct compliance inspections. The fiscal note assumes that CDPHE will inspect five individual items per product resulting in 375 inspections every five years or 75 inspections annually.
- **Additional personal services.** CDPHE requires 1.0 FTE as administrative support for these processes. CDPHE does currently inspect any products. New administrative support is needed for CDPHE to establish and maintain a system capable of performing this new task. This position will also assist in rulemaking to ensure the process can support any new rules.
- **Computer programming.** CDPHE requires about 6,000 hours of system changes services in FY 2023-24 and about 1,200 hours thereafter, at a cost of about \$1.2 million in FY 2023-24 and \$150,000

per year thereafter. Computer programming services are provided by the Office of Information Technology at a rate of \$195 per hour in the first year and about \$130 thereafter. The system will allow for regular updating of publically available rules, anonymous reporting of violations, and submissions of findings to the Attorney General.

- **Legal services.** CDPHE will require 180 hours of legal services at a cost of about \$20,000 per year to support rulemaking. Legal services are provided by the Department of Law at a rate of \$105.74 per hour.

Department of Law. The bill minimally increases workload in the Department of Law to the extent that violations are discovered through the inspection process. The department will review violations under the bill and prioritize investigations as necessary within and available resources.

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.

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 2023-24, the bill requires an appropriation of \$1,395,734 and 3.0 FTE to the Colorado Department of Public Health and Environment to be paid from the General Fund.

Departmental Difference

CDPHE estimates the bill requires \$1,639,581 and 6.3 FTE in FY 2023-24 and \$1,429,589 and 15.1 FTE in FY 2024-25, paid from the General Fund, assuming that the rulemaking requirements in the bill will trigger their formal rulemaking process and that the inspections will require significant time beyond physically conducting the inspections. As discussed in the State Expenditures section, the fiscal note uses different assumptions about rulemaking and inspection requirements.

State and Local Government Contacts

Law
Secretary of State

Public Health and Environment
Information Technology

Regulatory Agencies