



## Legislative Council Staff

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# Fiscal Note

**Drafting Number:** LLS 23-0205      **Date:** March 20, 2023  
**Prime Sponsors:** Rep. Boesenecker; Joseph      **Bill Status:** House Energy & Environment  
 Sen. Cutter      **Fiscal Analyst:** Josh Abram | 303-866-3561  
 josh.abram@coleg.gov

**Bill Topic:**      **WATER CONSERVATION IN OIL & GAS OPERATIONS**

**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 places new reporting requirements on oil and gas operators concerning water use, and requires the Department of Natural Resources to adopt rules to reduce, reuse, and recycle water used in oil and gas operations. The bill increases state expenditures beginning FY 2023-24 and are ongoing.

**Appropriation Summary:** For FY 2023-24, the bill requires an appropriation of \$643,335 to the Department of Natural Resources.

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

**Table 1**  
**State Fiscal Impacts Under HB 23-1242**

		Budget Year FY 2023-24	Out Year FY 2024-25
<b>Revenue</b>		-	-
<b>Expenditures</b>	Cash Funds	\$643,335	\$726,379
	Centrally Appropriated	\$111,009	\$155,176
	<b>Total Expenditures</b>	<b>\$754,344</b>	<b>\$881,555</b>
	<b>Total FTE</b>	<b>6.0 FTE</b>	<b>8.0 FTE</b>
<b>Transfers</b>		-	-
<b>Other Budget Impacts</b>		-	-

## Summary of Legislation

No later than January 31, 2024, the bill requires that oil and gas operators report specified information on water use in oil and gas operations to the Colorado Oil and Gas Conservation Commission (COGCC) in the Department of Natural Resources.

Operators must report the volume, source, and price paid for all water purchased or otherwise acquired for use in oil and gas operations, including the volume of any recycled or reused water. Reporting must include the annual and cumulative discharge of produced water, the manner in which and location where produced water is disposed, and if any technologically enhanced naturally occurring radioactive material (TENORM) or perfluoroalkyl and polyfluoroalkyl substances (PFAS, commonly referred to as “forever chemicals”) are present. Produced water refers to byproduct water that comes out of the well with the crude oil while the well is producing. Information on contaminated water must be passed on to the Colorado Department of Public Health and Environment (CDPHE). The COGCC must adopt rules for the reporting mechanism used by operators.

No later than June 1, 2024, the COGCC must adopt rules that require a reduction in fresh water usage, and an increase in produced water recycling and reuse, as a condition of a new or renewed oil and gas permit. New commission rules must be designed such that by the end of 2026, 75 percent of water used in oil and gas operations is recycled or reused, and by 2029, 90 percent of water is recycled or reused.

COGCC rules must require that oil and gas operators:

- include onsite closed loop flow back, treatment, and storage;
- use renewable energy sources at well sites;
- test flow back for PFAS and dispose of any contaminated water appropriately;
- comply with any prevailing worker wage, worker protection; or apprenticeship requirements imposed by COGCC; and
- report the daily vehicle miles traveled for any trucks hauling water to or from an oil and gas operation.

COGCC rules must prohibit oil and gas operators from:

- using a centralized treatment plant, unless part of a comprehensive area plan;
- locating centralized treatment plants in or near disproportionately impacted communities;
- using pits for storage;
- transporting produced water to another state; and,
- requiring that local governments provide water for and oil and gas operation.

The COGCC must include information about water use in the commission’s annual report on the cumulative impact on oil and gas operations. On a quarterly basis beginning in 2024, the commission must compile a cumulative report on vehicle miles traveled and public roads traveled and submit those to the Colorado Department of Transportation (CDOT).

**State Revenue**

The Environmental Unit in the COGCC is funded primarily from the Oil and Gas Conservation and Environmental Response Fund, which receives revenue from a surcharge on the market value of oil and natural gas. The COGCC has the authority to adjust the surcharge up to 1.7 mills as response fund obligations may require. No change in the mill levy rate is currently needed; however, if the requirements in the bill begin to increase fund obligations, the commission will consider available operating revenue and adjust the mill accordingly.

**State Expenditures**

The bill increases state expenditures in the DNR by \$754,344 in FY 2023-24 and by \$881,555 in FY 2024-25, paid from the Oil and Gas Conservation and Environmental Response Fund. Workload may also increase for the CDPHE and CDOT. Expenditures for the DNR are shown in Table 2 and detailed below.

**Table 2  
 Expenditures Under HB 23-1242**

	FY 2023-24	FY 2024-25
<b>Department of Natural Resources</b>		
Personal Services	\$479,443	\$715,579
Operating Expenses	\$8,100	\$10,800
Capital Outlay Costs	\$53,360	-
Computer Programming and User Acceptance Testing	\$102,432	-
Centrally Appropriated Costs <sup>1</sup>	\$111,009	\$155,176
<b>Total Cost</b>	<b>\$754,344</b>	<b>\$881,555</b>
<b>Total FTE</b>	<b>6.0 FTE</b>	<b>8.0 FTE</b>

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

**Personal services.** The DNR will create a produced water team within the Environmental Unit in the COGCC. The team includes 1 FTE program manager responsible for all administrative functions of new staff, developing policy proposals, serving as the subject matter expert at all rule making, and ensuring targets for produced and recycled water are met. The department requires 5 FTE environmental specialists for the management and analysis of produced water reports and ensuring proper disposal of contaminated produced water at oil and gas operations; and 2 FTE for data management, creating electronic reporting forms, maintaining data collection tools and reports, advising the rule making process, and consolidating and transferring specified data to the CDPHE and the DOT. Personal services include standard operating and capital outlay costs. Senior staff is assumed to start on July 1, 2023; environmental and one data position are assumed to start on November 1, 2023, closer to the start of reporting by oil and gas operators in January 2024. First-year costs are adjusted for these start dates.

**Computer programming and user acceptance training.** The DNR requires one-time costs in FY 2023-24 to modify existing reporting tools and to program and test electronic forms to collect the required new data from oil and gas operators.

**Other state agencies.** Workload may increase in the CDPHE and the DOT to arrange data sharing agreements with DNR and to accept, compile and store new data received concerning contaminants in produced water, and vehicle miles travelled and other transportation data.

**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 upon signature of the Governor, or upon becoming law without his signature.

## State Appropriations

For FY 2023-24, the bill requires an appropriation of \$643,335 from the Oil and Gas Conservation and Environmental Response Fund to the Department of Natural Resources, and 6.0 FTE.

## State and Local Government Contacts

Law

Natural Resources

Public Health and Environment

Transportation