



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated March 20, 2023)

Drafting Number: LLS 23-0205 Date: April 12, 2023
Prime Sponsors: Rep. Boesenecker; Joseph Sen. Cutter Bill Status: House Appropriations Fiscal Analyst: Josh Abram | 303-866-3561 josh.abram@coleg.gov

Bill Topic: WATER CONSERVATION IN OIL & GAS OPERATIONS

- Summary of Fiscal Impact: [x] State Revenue [x] State Expenditure [] State Transfer [] TABOR Refund [] Local Government [] 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.

Appropriation Summary: For FY 2023-24, the bill requires appropriations totaling \$494,681 to the Department of Natural Resources and the Colorado Department of Public Health and Environment.

Fiscal Note Status: This revised fiscal note reflects the introduced bill, as amended by the House Energy and Environment Committee.

Table 1 State Fiscal Impacts Under HB 23-1242

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

Summary of Legislation

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 (DNR). The commission must adopt new rules, and creates a consortium to study the use and recycling of produced water in oil and gas operations. Produced water refers to byproduct water that comes out of the well with the crude oil while the well is producing.

Water use in oil and gas operations. Operators must report the volume and source for all water purchased or otherwise acquired for use in oil and gas operations, including the volume of recycled or reused water, the total amount of produced water, and the amount of produced water disposed or recycled from an oil and gas location. An operator's produced water reports must describe all water produced or used throughout the operational lifetime of a well. Monthly reporting on individual wells begins on September 1, 2023, and quarterly reports for each oil and gas location begins on January 1, 2024.

COGCC rules. No later than July 1, 2024, the COGCC must adopt rules that require a reduction in fresh water usage, and an increase in produced water recycling and reuse. COGCC rules must include requirements that any new oil and gas development or substantial modification specify methods and locations for treatment of produced water, and plans for the use of recycled or reused produced water instead of fresh water.

Additionally, the COGCC rules must:

- require that oil and gas operators report the daily vehicle miles traveled for any trucks hauling water to or from an oil and gas operation;
- prohibit operators from locating centralized water treatment plants in or near disproportionately impacted communities;
- require an iterative and consistent increase in the use of recycled or reused produced water for each oil and gas production basin; and
- establish dates and targets for using recycled or reused produced water in hydraulic fracturing.

The COGCC must include information about water use in the commission's annual report on the cumulative impact on oil and gas operations.

Produced water consortium. The bill creates the 29-member Colorado Produced Water Consortium in the DNR to analyze and report on the recycling and reuse of produced water. The consortium is comprised of state and local governmental groups, research institutions, industry representatives, subject matter experts, and other stakeholders. The consortium has a governing body made up of representatives from the DNR and the Colorado Department of Public Health and Environment (CDPHE). The DNR may hire a director of research to coordinate meetings, write grants, contract for analysis and research, and other administrative tasks.

The consortium membership must be appointed by July 1, 2023, and must meet monthly during the first year of convening, and at least quarterly thereafter. Consortium members are reimbursed for expenses and receive a per diem allowance of \$50 for each day spent in attendance at a consortium meeting. Consortium members representing disproportionately impacted communities or

community groups committed to advancing environmental justice may receive hourly compensation using the state minimum wage.

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 \$544,933 in FY 2023-24, and by \$480,558 in FY 2024-25, paid from the Oil and Gas Conservation and Environmental Response Fund. Expenditures increase in the CDPHE by \$36,301 in FY 2023-24, and by \$39,301 in FY 2024-25, paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

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

| | FY 2023-24 | FY 2024-25 |
|---|------------------|------------------|
| Department of Natural Resources | | |
| Personal Services | \$388,603 | \$388,603 |
| Operating Expenses | \$5,400 | \$5,400 |
| Capital Outlay Costs | \$26,680 | - |
| Information Technology Costs | \$25,608 | - |
| Consortium Member Per Diem & Wages | \$18,221 | \$6,074 |
| Centrally Appropriated Costs ¹ | \$80,481 | \$80,481 |
| FTE – Personal Services | 4.0 FTE | 4.0 FTE |
| DNR Subtotal | \$544,993 | \$480,558 |
| Colorado Department of Public Health and Environment | | |
| Personal Services | \$30,169 | \$32,911 |
| Centrally Appropriated Costs ¹ | \$6,132 | \$6,390 |
| FTE – Personal Services | 0.3 FTE | 0.3 FTE |
| CDPHE Subtotal | \$36,301 | \$39,301 |
| Total | \$581,294 | \$519,859 |
| Total FTE | 4.3 FTE | 4.3 FTE |

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

Department of Natural Resources

Personal services. New staff in the DNR include 1 FTE program manager for overall administrative support to the produced water consortium, 2 FTE environmental protection specialists to conduct research and data analysis, and to provide subject matter expertise to the COGCC in new rule making, and 1 FTE data manager to manage new reporting protocols for produced water, and to analyze, consolidate, and audit data. Personal services include standard operating and capital outlay costs.

Information technology costs. The DNR has costs in FY 2023-24 for computer programming and user acceptance training. These one-time costs include modifying existing reporting tools and programming and testing electronic forms to collect the required new data from oil and gas operators.

Consortium member per diem & wages. The fiscal note assumes that only the 26 appointed members will receive a per diem allowance for meetings and that 4 appointed members also receive a minimum wage. New costs assume 12 meetings in FY 2023-24 and 4 meetings in FY 2024-25. Consortium meetings will be conducted primarily online, therefore no additional reimbursement for travel expenses are expected.

Centrally appropriated costs. Department costs addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, including employee insurance and supplemental employee retirement payments, are shown in Table 2.

Colorado Department of Public Health and Environment

Personal services. CDPHE will increase staff with 0.3 FTE professional engineer to serve as a member of the produced water consortium governing board. The department will assist with appointments, attend all meetings, coordinate staff support with the DNR, and assist with analysis and reporting requirements.

Centrally appropriated costs. Department costs addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, including 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. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing 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 2023-24, the bill requires the following appropriations:

- \$464,512 from the Oil and Gas Conservation and Environmental Response Fund to the Department of Natural Resources, and 4.0 FTE; and
- \$30,169 from the General Fund to the Colorado Department of Public Health and Environment, and 0.3 FTE.

State and Local Government Contacts

Law

Natural Resources

Public Health and Environment

Transportation