



Legislative Council Staff
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Final Fiscal Note

Drafting Number: LLS 23-0897 **Date:** August 21, 2023
Prime Sponsors: Sen. Winter F. **Bill Status:** Signed into Law
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Bill Topic: **CLEAN ENERGY PLANS**

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 expands the applicability of Clean Energy Plans and requires the Department of Public Health and Environment to verify greenhouse gas emissions reductions. It increases state expenditures beginning in FY 2023-24.

Appropriation Summary: For FY 2023-24, the bill requires and includes an appropriation of \$276,384 to the Department of Public Health and Environment.

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

Table 1
State Fiscal Impacts Under SB 23-198

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue		-	-
Expenditures	General Fund	\$276,384	\$312,755
	Centrally Appropriated	\$45,282	\$57,112
	Total Expenditures	\$321,666	\$369,867
	Total FTE	2.8 FTE	3.4 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$41,458	\$46,913

Summary of Legislation

The bill expands the applicability of Clean Energy Plans and requires verification and enforcement of the plans, as described below.

For a Clean Energy Plan submitted on or after July 1, 2023, the submitting entity must base its greenhouse gas emission calculations on the resources it uses to supply electricity to its customers and the resources it owns that are not otherwise required to be included in another entity's Clean Energy Plan. The Department of Public Health and Environment (CDPHE) must verify any such plans, in consultation with the Public Utilities Commission (PUC) in the Department of Regulatory Agencies, and must hold a public meeting on the verification of certain plans. The CDPHE is not required to conduct its own modeling as part of this process.

Any plan submitted on or after January 1, 2024, must achieve a 46 percent reduction in greenhouse gas emissions and an 80 percent reduction by 2030 compared to 2005 baseline emissions, as long as certain reliability and cost considerations are satisfied. The bill specifies the model portfolios that entities must include when submitting an electric resource plan.

By June 1, 2028, CDPHE must calculate the percentage reduction in greenhouse gas emissions from electricity sales for each entity from 2005 to 2027 and evaluate whether the entity is on track to achieve an 80 percent reduction by 2030. These determinations are also subject to a public meeting. Any entity found out of compliance with its Clean Power Plan must submit a report to CDPHE identifying how it will achieve the emissions reduction goal by 2030. If the entity does not submit the report, or if CDPHE determines that the report will not achieve the target, CDPHE will adopt rules and amend operating permits to limit greenhouse gas emissions.

By March 31, 2026, entities may inform CDPHE of any challenges in meeting greenhouse gas emissions reduction targets. Upon receipt of this, CDPHE, in coordination with the Colorado Energy Office, must hold at least one public stakeholder meeting in 2026 to discuss the challenges raised by the entity. If the entity still expects challenges, CDPHE must report these to the General Assembly.

The bill expands the requirements for Clean Energy Plans to certain entities that are not otherwise required to submit one to CDPHE. An entity may designate another entity to submit a Clean Energy Plan on its behalf, or multiple entities may submit a plan jointly. Cooperative retail electric utilities, certain wholesale power marketers, and new electric utilities must also submit a Clean Energy Plan in certain circumstances. The bill specifies timelines and procedures for submitting and verifying the plans.

CDPHE must submit a report to the General Assembly on electric utilities, the verification status of their Clean Energy Plans, and how energy resources and greenhouse gas emissions relate for each plan by October 1, 2024.

CDPHE must issue guidance on how it will track greenhouse gas emissions associated with electric utility transactions in organized markets by December 31, 2024.

State Revenue

Subject to rules adopted by CDPHE, the bill may increase revenue to the Stationary Sources Cash Fund beginning from fees beginning in FY 2025-26. This revenue, which would accrue from any fees instituted per the requirements of the bill, would be subject to TABOR. Because it is unknown at this time which fees would be instituted, the revenue impact has not been estimated.

State Expenditures

The bill increases state expenditures in CDPHE by \$322,000 in FY 2023-24 and \$370,000 in FY 2024-25 and ongoing, paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under SB 23-198**

	FY 2023-24	FY 2024-25
Department of Public Health and Environment		
Personal Services	\$189,420	\$245,126
Operating Expenses	\$3,510	\$4,185
Capital Outlay Costs	\$20,010	-
Legal Services	\$63,444	\$63,444
Centrally Appropriated Costs ¹	\$45,282	\$57,112
FTE – Personal Services	2.5 FTE	3.1 FTE
FTE – Legal Services	0.3 FTE	0.3 FTE
Total Cost	\$321,666	\$369,867
Total FTE	2.8 FTE	3.4 FTE

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

Department of Public Health and Environment. The bill requires additional staff to review Clean Energy Plans and perform related functions, contracting with emissions modeling consultants, developing an emissions tracking system, and legal services, as detailed below.

- **Staff.** CDPHE requires additional staff to review additional Clean Energy Plans, administer modeling contracts, conduct stakeholder meetings, verify calculations and emissions reductions, consult with the PUC, and conduct rulemaking. Standard operating and capital outlay costs are included, and costs in FY 2023-24 are prorated to account for the General Fund pay date shift.
- **Legal services.** CDPHE requires 600 hours of legal services annually for general counsel, representation in proceedings, and enforcement. Additional legal services may be required for enforcement activity when an entity fails to comply with the bill’s requirements. The fiscal note assumes that entities will generally follow the law; if additional resources are required, they will be addressed through the annual budget process. Legal services are provided by the Department of Law at a rate of \$105.74 per hour.

Colorado Energy Office. Workload may increase in the CEO to provide entities with information regarding federal funding opportunities related to greenhouse gas emissions reduction planning. This can be accomplished within existing appropriations.

Department of Regulatory Agencies. Workload may increase in the PUC to consult with CDPHE on new Clean Energy Plans. This can be accomplished within existing appropriations.

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. 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

This bill was signed into law by the Governor and took effect on June 5, 2023.

State Appropriations

For FY 2023-24, the bill requires and includes a General Fund appropriation of \$276,384 to the Department of Public Health and Environment, and 2.5 FTE. Of this, \$63,444 is reappropriated to the Department of Law, with 0.3 FTE.

State and Local Government Contacts

Colorado Energy Office
Legislative Council Staff

Information Technology
Public Health and Environment

Law
Regulatory Agencies