



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number: LLS 23-0820 Date: June 27, 2023
Prime Sponsors: Sen. Winter F. Bill Status: Signed into Law
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Bill Topic: WATER QUALITY CONTROL FEE-SETTING BY RULE

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

The bill updates the administration of water quality fees by the Department of Public Health and Environment. It minimally increases state expenditures, and may result in changes to state revenue and transfers, beginning in FY 2023-24.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

The bill makes a number of changes to the administration of water quality fees assessed by the Department of Public Health and Environment (CDPHE).

Fee-setting by rule. The Water Quality Control Commission assesses fees on a variety of industries for pollution discharge permits and for other water-related activities. Fees are set in statute and range from under \$100 to more than \$35,000 depending on the sector and the regulated activity. The bill requires the commission, after engaging with stakeholders, to set the fees by rule by October 31, 2025. The existing fees remain in place until January 1, 2026, unless the commission adopts rules to phase-in the new fees earlier. In addition, fees established for the disposal of biosolids are currently set in statute. The commission must establish the fees by rule beginning July 1, 2026.

Other than drinking water fees, fee revenue subject to the new rules accrues to the new Clean Water Cash Fund, which is subject to annual appropriation. On June 30, 2026, the bill consolidates any remaining balance in the predecessor funds into the Clean Water Cash Fund.

**Reporting requirements.** Under current law, CDPHE must submit an annual report to the General Assembly on its water quality control programs. The bill requires the report to include additional information on fees collected, rules adopted, funding sources, expenditures, and regulatory activities conducted until October 1, 2025.

**Administrative expenditures.** The bill increases the cap on administrative expenses for the Small Communities Water and Wastewater Grant Program in CDPHE from 5 percent to 10 percent.

**Water Quality Control Commission membership.** The bill updates the membership of the existing Water Quality Control Commission by requiring that no more than five of its nine members be affiliated with the same political party, and by requiring specific sectoral experience.

**Radioactive waste disposal.** The bill repeals CDPHE's regulatory authority over the disposal of radioactive waste.

## **Comparable Crime Analysis**

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or creates a new factual basis for an existing crime. The following section outlines crimes that are comparable to the offense in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

**Prior conviction data and assumptions.** This bill creates a new factual basis for the existing offense of criminal pollution by repealing the permit requirement for disposal of radioactive waste. From FY 2019-20 to FY 2021-22, one individual has been convicted and sentenced for committing this offense knowingly. Demographically, the individual did not have a gender or race identified. Therefore, the fiscal note assumes that there will be minimal or no fewer case filings or convictions for the new offense under the bill and the fiscal impacts on the judicial system are not discussed further in this fiscal note. Visit [leg.colorado.gov/fiscalnotes](https://leg.colorado.gov/fiscalnotes) for more information about criminal justice costs in fiscal notes.

## **State Revenue**

If CDPHE sets fees that are higher or lower than the existing, statutory fees, state revenue and the fee impact on payers will increase or decrease correspondingly. As CDPHE is not expected to change fee levels in the short term, the fiscal note identifies no change in state revenue.

## **State Transfers**

The bill requires multiple transfers in FY 2026-27 to consolidate remaining fund balances into the Clean Water Cash Fund. These amounts have not been estimated.

## **State Expenditures**

The bill increases workload to conduct rulemaking for setting fees by October 1, 2025. This fee-setting can be accomplished during the normal course of business, and no change in appropriations is required. Rulemaking requires legal services, provided by the Department of Law, which can be accomplished within existing legal services appropriations.

## **Effective Date**

This bill was signed into law by the Governor and took effect on May 17, 2023, except that Sections 10 and 11 of the bill, pertaining to biosolid waste fees, take effect July 1, 2026.

## **State and Local Government Contacts**

Law

Public Health and Environment