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Fiscal Note

Drafting Number:	LLS 24-0365	Date:	January 10, 2024
Prime Sponsors:	Sen. Simpson; Bridges Rep. Lynch; McCormick	Bill Status:	Senate Agriculture
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Bill Topic: **STUDY GREEN INFRASTRUCTURE FOR WATER QUALITY MANAGEMENT**

Summary of Fiscal Impact:	<input 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 requires the Colorado Department of Public Health and Environment to conduct a feasibility study and create demonstration projects of green infrastructure as an alternative compliance mechanism for water quality compliance. The bill increases state expenditures beginning FY 2024-25.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of \$914,129 to the Colorado Department of Public Health and Environment.

Fiscal Note Status: The fiscal note reflects the introduced bill, as requested by the Water Resources and Agriculture Review Committee.

**Table 1
State Fiscal Impacts Under SB24-037**

		Budget Year FY 2024-25	Out Year FY 2025-26	Out Year FY 2026-27
Revenue		-	-	-
Expenditures	General Fund	\$914,129	\$663,113	\$552,123
	Centrally Appropriated	\$91,932	\$82,200	\$58,015
	Total Expenditures	\$1,006,061	\$745,313	\$610,137
	Total FTE	4.6 FTE	4.0 FTE	2.7 FTE
Transfers		-	-	-
Other Budget Impacts	General Fund Reserve	\$137,119	\$99,467	\$82,818

Summary of Legislation

The bill requires that the Colorado Department of Public Health and Environment (CDPHE) study the feasibility of substituting green infrastructure, a planned and managed network of natural green spaces, for traditional centralized wastewater and drinking water treatment mechanisms. The study must determine if green infrastructure:

- is feasible as an alternative compliance mechanism for water providers that can be aligned with other state and local interests, including wildfire mitigation;
- attracts new sources of environmental-focused funding for water quality compliance and for water infrastructure projects; and
- creates cost savings for the CDPHE and local water providers.

The feasibility study must be completed by December 31, 2025. A progress report on the study must be presented by July 1, 2025 to the Water Resources and Agriculture Review Committee. After completing the study, the CDPHE must establish one or more pilot programs to demonstrate the use of green infrastructure as an alternative compliance program supported with environmental-focused funding. The CDPHE must coordinate with the University of Colorado (CU) and Colorado State University (CSU) to conduct the study and to develop and provide technical assistance to the pilot programs.

No later than December 31, 2025, the Water Quality Control Commission in the CDPHE must consult with higher education partners and a representative group of interested parties to adopt rules that establish pre-permit baseline data allowing an operator using nature-based solutions to demonstrate water quality compliance to state and federal regulators. The bill is repealed September 1, 2032.

State Expenditures

The bill increases state expenditures in the CDPHE by about \$682,000 in FY 2024-25, about \$585,000 in FY 2025-26, and about \$610,000 in FY 2026-27, paid from the General Fund. Expenditures in FY 2024-25 are primarily to conduct the feasibility study. Costs in future fiscal years are for pilot and demonstration projects. New costs are displayed in Table 2 and discussed below.

**Table 2
Expenditures Under SB24-037**

	FY 2024-25	FY 2025-26	FY 2026-27
Department of Public Health and Environment			
Personal Services	\$428,024	\$397,861	\$299,482
Operating Expenses	\$5,760	\$4,992	\$3,327
Capital Outlay Costs	\$33,350	\$20,010	\$20,010
Legal Services	\$29,445	\$29,445	\$16,643
Contracted Technical and Specialized Assistance	\$417,550	\$208,950	\$208,950
Site Visit Travel & Per Diem	-	\$1,855	\$3,710
Centrally Appropriated Costs ¹	\$91,932	\$82,200	\$58,015
FTE – Personal Services	4.5 FTE	3.9 FTE	2.6 FTE
FTE – Legal Services	0.1 FTE	0.1 FTE	0.1 FTE
Total Cost	\$1,006,061	\$745,313	\$610,137
Total FTE	4.6 FTE	4.0 FTE	2.7 FTE

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

The CDPHE requires additional staff and will contract outside vendor(s) for additional specialized and technical support beginning FY 2024-25. Staff and contractor(s) are necessary to complete the feasibility study and prepare a final report and recommendations for pilot programs by December 2025. Additional staff and vendor support is also necessary beginning in FY 2024-25 to create rules and develop the program, and to launch and manage pilot projects beginning sometime after the feasibility study in FY 2025-26.

Personal services. In FY 2024-25, 1.9 FTE Environmental Specialist will analyze existing federal, state and local policies, investigate green infrastructure funding options and potential investors, evaluate community interests and goals, assess alternative legislative and administrative actions necessary for alternative compliance mechanisms, coordinate and manage technical assistance from outside vendor(s), and prepare and present reports. Approximately 3 FTE are required for rule making and project program development, through December 2026 (18 months). This process includes statewide stakeholder meetings, preparing a statement of basis and purpose, formal submission, drafting and revisions, coordinating with contractor(s) and adopting final rules in time to launch demonstration projects. A total of 2.5 FTE Professional Engineer are required beginning FY 2025-26 to implement pilot programs, manage additional rulemaking and permitting for discharge variance, coordinate with project participants and vendor(s), and to evaluate scientific and regulatory impacts.

Legal services. The CDPHE requires additional legal services provided by the Department of Law to conduct the feasibility study, and to implement the pilot programs, estimated at 230 hours in FY 2024-25 and FY 2025-26, and decreasing thereafter to 130 hours annually.

Contracted technical and specialized assistance. The CDPHE will contract with outside subject matter experts, facilitators, and other experts to conduct rulemaking, prepare the feasibility study, and manage pilot projects. These contracts are expected to total 1,200 hours in FY 2024-25, and about 600 hours in FY 2025-26 and thereafter, at a rate of \$350 per hour.

Site visit travel and per diem. Beginning FY 2025-26, staff will require mileage reimbursement and hotel and per diem costs for statewide site visits to pilot projects.

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

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2024-25, the bill requires a General Fund appropriation of \$914,129 to the Colorado Department of Public Health and Environment, and 4.6 FTE. Of this amount, \$29,455 is reappropriated to the Department of Law, and 0.1 FTE.

State and Local Government Contacts

Public Health and Environment