



Legislative
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Nonpartisan Services for Colorado's Legislature

HB 18-1093

**REVISED
FISCAL NOTE**

(replaces fiscal note dated January 24, 2018)

Drafting Number: LLS 18-0654
Prime Sponsors: Rep. Arndt
Sen. Coram

Date: March 14, 2018
Bill Status: Senate Agriculture
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Bill Topic: RECLAIMED WATER USE FOR EDIBLE CROPS

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue (<i>potential</i>)	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill codifies rules promulgated by the Water Quality Control Commission related to the allowable uses of reclaimed domestic wastewater, and expands allowable uses to include irrigation of food crops. This bill will result in an ongoing increase in state expenditures.

Appropriation Summary: In FY 2018-19, the bill requires an appropriation of \$14,399 to the Department of Public Health and Environment.

Fiscal Note Status: This fiscal note reflects the reengrossed bill.

**Table 1
State Fiscal Impacts Under HB 18-1093**

		FY 2018-19	FY 2019-20
Revenue		-	-
Expenditures	General Fund	\$14,399	\$17,866
	Centrally Appropriated	\$5,420	\$7,419
	Total	\$19,819	\$25,285
	Total FTE	0.1 FTE	0.2 FTE
Transfers		-	-

Summary of Legislation

This bill codifies rules promulgated by the Water Quality Control Commission (WQCC) within the Colorado Department of Public Health and Environment (CDPHE) related to the allowable uses of reclaimed domestic wastewater, and expands allowable uses to include irrigation of food crops. In addition, the bill defines three categories of water quality standards.

The bill clarifies that a food crop is a crop produced for direct human consumption or a tree that produces nuts or fruit intended for human consumption. Food crops do not include those produced for animal consumption only, unless they are produced where lactating dairy animals forage. Reclaimed wastewater may only be used for food crop irrigation if it meets the water quality standards for commercial crops under the federal Food and Drug Administration Food Safety Modernization Act.

The WQCC may promulgate rules related to reclaimed wastewater on or before December 31, 2019. If the WQCC finds that the standards and categories in the bill are not protective of public health and identifies either: (1) a documented incident of microbial disease that likely originates from reclaimed wastewater; or (2) a peer-reviewed published article that identifies a potential public health risk posed by the use of reclaimed wastewater, it may promulgate more stringent rules. The WQCC is also authorized to:

- create new categories of water quality standards;
- recategorize any of the allowable uses to a less stringent category; and
- authorize additional uses.

Following a stakeholder process, the Water Quality Control Division (WQCD) within CDPHE is authorized to develop policy, guidance, or best management practices related to reclaimed wastewater. It is also authorized to grant variances from the standards if the proposed usage will sufficiently protect public health and the environment.

Background

Under current law, reclaimed domestic wastewater is wastewater that has received treatment for subsequent reuses other than drinking. The Colorado Water Quality Control Act authorized the WQCC to promulgate control regulations to describe requirements, prohibitions, standards, and concentration limitations on the reuse of reclaimed domestic wastewater that will protect public health and encourage reuse. Regulation 84, also known as the Reclaimed Water Control Regulation, was adopted by the WQCC in October 2000, and was amended in 2004, 2005, 2007, and 2013.

Regulation 84 establishes treatment requirements for the use of reclaimed wastewater for irrigation, fire protection, industrial uses, and certain other commercial uses. CDPHE reviews applications from reclaimed wastewater systems and user plans to determine whether they meet the requirements of the regulation. If the requirements are met, CDPHE issues notices of authorization. CDPHE also reviews annual reports, considers requests for variances, conducts inspections, and enforces the requirements of Regulation 84. Existing department resources for the program are approximately 1.2 FTE.

State law allows the WQCD to collect fees for regulated reclaimed wastewater systems. The fees currently range from \$450 to \$6,300 per year, depending on the capacity of the treatment facility. Individual end users of reclaimed wastewater systems are not currently charged fees by the division.

State Revenue

While this bill does not change the existing fee structure to offset expenditures, state revenue will increase if and when new reclaimed wastewater treatment plants are constructed as a result of this bill. Existing reclaimed wastewater systems may also have existing capacity to allow for the expanded uses in this bill.

State Expenditures

This bill increases expenditures for CDPHE by \$19,819 and 0.1 FTE in FY 2018-19, and by \$25,285 and 0.2 FTE in FY 2019-20 and beyond.

CDPHE will utilize 0.2 FTE Environmental Protection Specialist II to regulate the expanded uses, prorated to 0.1 to account for the General Fund paydate shift in FY 2018-19. The additional workload includes providing guidance to regulated entities, reviewing letters of intent and user plans, data entry, record keeping, drafting notices of authorization, developing forms and guidance documents, conducting inspections, drafting inspection reports, identifying noncompliance issues, reviewing noncompliance responses, responding to complaints, providing information to the public, and training. The fiscal note includes \$4,000 in travel costs annually based on 10 trips averaging two nights each at a rate of \$400 per trip for compliance oversight and compliant response, technical assistance and training, and coordination meetings. Program costs are shown in Table 2.

**Table 2
 Expenditures Under HB 18-1093**

	FY 2018-19	FY 2019-20
Department of Public Health and Environment		
Personal Services	\$10,399	\$13,866
Travel	\$4,000	\$4,000
Centrally Appropriated Costs*	\$5,420	\$7,419
FTE – Personal Services	0.1 FTE	0.2 FTE
Total Cost	\$19,819	\$25,285
Total FTE	0.1 FTE	0.2 FTE

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

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 estimated to be \$5,420 in FY 2018-19 and \$7,419 in FY 2019-20.

Local Government

The expanded reclaimed wastewater uses in the bill may allow local governments to increase water sales to new or existing customers, thereby increasing the potential revenue from existing, new, or expanded reclaimed wastewater systems. However, potential increases in revenue could be partially offset by increased operating costs or legal fees.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2018-19, the bill requires a General Fund appropriation of \$14,399 to CDPHE and an allocation of 0.1 FTE.

State and Local Government Contacts

Agriculture	Counties	Information Technology
Local Affairs	Municipalities	Natural Resources
Public Health and Environment		