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Revised Fiscal Note

(replaces fiscal note dated April 15, 2021)

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Prime Sponsors: Rep. Jackson Bill Status: Senate Finance
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Bill Topic: ENVIRONMENTAL JUSTICE DISPROPORTIONATE IMPACTED COMMUNITY

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

This bill creates the Environmental Justice Action Task Force within the Department of Public Health and Environment, and requires the Air Quality Control Commission to engage with disproportionately impacted communities on proposed state actions. Beginning in FY 2021-22, it increases state revenue and expenditures on an ongoing basis.

Appropriation Summary: The bill includes an appropriation of \$456,090 to the Department of Public Health and Environment.

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

Table 1
State Fiscal Impacts Under House Bill 21-1266

Table with 4 columns: Category, Sub-category, Budget Year FY 2021-22, and Out Year FY 2022-23. Rows include Revenue, Expenditures, Transfers, and TABOR Refund.

Summary of Legislation

This bill creates the Environmental Justice Action Task Force within in the Department of Public Health and Environment (CDPHE), and requires the Air Quality Control Commission (AQCC) which is also part of CDPHE, to engage with disproportionately impacted communities on proposed state actions.

Environmental Justice Action Task Force. The task force is comprised of 23 members appointed by the Governor and legislative leadership. The task force will propose recommendations to the General Assembly regarding addressing environmental justice inequities by:

- developing a state agency-wide environmental justice strategy;
- adopting a plan that addresses the lack of data and data sharing between state agencies on environmental hazard exposure;
- creating new ways to engage and gather input from disproportionately impacted communities; and
- evaluating the bill's definitions of: "disproportionately impacted community;" "proposed state action;" and "agency."

The task force is required to hold at least six meetings, either in person or online, to solicit input from community members, and must submit a final report to the Governor, CDPHE, and relevant legislative committees by November 14, 2022. CDPHE must post meeting summaries, draft recommendations, and the final report on its website, and must report on the task force during its SMART Act presentations. The task force is repealed effective September 1, 2024.

Air Quality Control Commission Engagement. The bill requires the AQCC to engage with disproportionately impacted communities, as defined in the bill, regarding rule-making proceedings, licensing proceedings, and adjudicatory hearings. Specifically, the bill requires the AQCC to:

- schedule public input meetings at variable times and days of the week;
- provide notice at least 30 days prior to a public comment period or public meetings;
- use multiple methods of outreach;
- provide multiple methods for public input;
- consider a variety of locations for public input on the proposed state action; and
- provide information concerning the proposed state action in the top two languages spoken in the disproportionately impacted community.

State Revenue

Beginning in FY 2022-23, revenue will increase by \$175,000 per year to the Stationary Sources Control Fund in the CDPHE from permit fees.

Fee impact on stationary sources. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Fee revenue is anticipated to increase by around \$175,000 per year beginning in FY 2022-23 to cover costs associated with AQCC engagement related to stationary sources, and is subject to TABOR. This amount reflects 70 percent of the total costs for community engagement regarding AQCC proceedings, assuming that 30 percent of these proceedings do not impact stationary sources. These fee amounts will be set administratively by the CDPHE based on cash fund balance, estimated program costs, the estimated number of stationary sources subject to the fee, and current emissions levels. The fees will be paid by up to 18,000 regulated stationary source facilities. The table below identifies the approximate fee impact of this bill.

**Table 2
 Fee Impact Under HB 21-1266**

Fee Type	FY 2021-22	FY 2022-23	FY 2023-24
Emissions Fee	-	\$175,000	\$175,000

State Expenditures

The bill increases expenditures from multiple fund sources by \$500,827 and 3.2 FTE in FY 2021-22 and \$462,580 and 2.6 FTE in FY 2022-23. These costs are shown in Table 3 and discussed below.

**Table 3
 Expenditures Under HB 21-1266**

Cost Components	FY 2021-22	FY 2022-23
Department of Public Health and Environment		
<i>Air Quality Control Commission</i>		
Personal Services	\$88,898	\$96,979
Operating Expenses	\$1,755	\$1,755
Capital Outlay Costs	\$6,200	-
Interpretation and Translation Services	\$24,000	\$24,000
Public Meeting and Communication Materials	\$73,600	\$73,600
Travel Costs	\$3,238	\$3,238
Centrally Appropriated Costs ¹	\$21,043	\$50,414
FTE – Personal Services	1.3 FTE	1.3 FTE
AQCC Subtotal	\$218,734	\$249,986

**Table 3
 Expenditures Under HB 21-1266 (Cont.)**

Cost Components	FY 2021-22	FY 2022-23
<i>Environmental Justice Action Task Force</i>		
Personal Services	\$107,134	\$61,142
Operating Expenses	\$2,025	\$1,080
Capital Outlay Costs	\$12,400	-
Legal Services	\$106,340	\$106,340
Communications Materials	\$24,500	\$24,500
Interpretation and Translation Services	\$6,000	\$6,000
Centrally Appropriated Costs ¹	\$23,694	\$13,532
FTE – Personal Services	1.4 FTE	0.8 FTE
FTE – Legal Services	0.5 FTE	0.5 FTE
Task Force Subtotal	\$282,093	\$212,594
Total Expenditures	\$500,827	\$462,580
Total FTE	3.2 FTE	2.6 FTE

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

Air Quality Control Commission engagement. The bill increases expenditures by \$218,734 in FY 2021-22 and \$249,986 in FY 2022-23 with 1.3 FTE for the community engagement component of the bill. Expenditures in FY 2021-22 will be paid from the General Fund and beginning in FY 2022-23, will be split between the General Fund (30 percent) and the Stationary Sources Control Fund (70 percent). This fund split acknowledges that a portion of AQCC actions are not related to stationary sources (e.g. transportation).

The fiscal note assumes that the AQCC will propose eight state actions per year, including rulemaking and adjudicatory hearings, which will impact disproportionately impacted communities, necessitating AQCC outreach as prescribed in the bill. For each hearing, the fiscal note assumes that the AQCC will host 3 public comment sessions, resulting in 24 outreach sessions. Staff workload consists of administrative and management support to coordinate the meetings, attend meetings, and provide follow-up related to the sessions. This includes having an environmental protection specialist participate in the outreach sessions and develop revisions to the proposed state actions based upon community input.

Outreach sessions will also incur meeting-related expenses, including translation and interpretation services, facility rental, child care, and printed communication materials. These costs are estimated at \$97,600 annually.

Environmental Justice Action Task Force. The task force will increase General Fund expenditures by \$282,093 and 1.5 FTE in FY 2021-22, and \$159,424 and 0.8 FTE in FY 2022-23, after which staff support for the task force is no longer needed. This initially consists of 1.0 FTE policy advisor to serve

as the task force administrator and to develop and support the task force's work products, and 0.5 FTE program assistant to support and facilitate the meetings. It is assumed that the task force will begin meeting monthly in August, 2021, and hold six public meetings as required by the bill to seek input from communities throughout the state.

This fiscal note assumes that the public comment sessions will occur virtually. Translation and interpretation services will be needed for communications related to the public comment sessions, estimated at \$6,000 annually, and costs for specialized communications materials, including collateral documents such as strategic plans and equity analysis work, estimated at \$24,500.

Workload will increase for other state agencies that participate in the task force and contribute to research; no increase in appropriations is required.

Legal services. In addition, it is assumed that 1,000 hours (0.5 FTE) of legal services are required each year to advise the task force and support changes to AQCC rulemaking proposals to incorporate community feedback and reduce burdens to disproportionately impacted communities. The complexity of rulemaking will vary year to year; this level of legal services is an estimate. Legal services are provided by the Department of Law.

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 \$44,737 in FY 2021-22 and \$63,945 in FY 2022-23.

TABOR refunds. The bill increases state revenue subject to TABOR. For FY 2022-23, the March 2021 LCS forecast projects revenue to fall short of the TABOR limit by \$28.6 million, or 0.2 percent of the limit. If actual revenue exceeds the limit, the bill will increase the amount required to be refunded to taxpayers from the General Fund in FY 2023-24.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2021-22, the bill requires and includes a General Fund appropriation of \$456,090 to the Department of Public Health and Environment, and 2.7 FTE. Of this amount, \$106,340 is reappropriated to the Department of Law, and 0.5 FTE.

State and Local Government Contacts

Agriculture
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Natural Resources
Regulatory Agencies

Colorado Energy Office
Information Technology
Public Health and Environment
Transportation