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Fiscal Note

Drafting Number:
Prime Sponsors:

LLS 23-0396
Rep. Soper; Mauro
Sen. Simpson

Date: March 16, 2023
Bill Status: House Energy & Environment
Fiscal Analyst: Matt Bishop | 303-866-4796
matt.bishop@coleg.gov

Bill Topic:

WATER QUALITY DATA STANDARDS

Summary of Fiscal Impact:

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill requires the use of quality-assured data to establish the total maximum daily load for pollutants discharged into state waters. It increases state expenditures beginning in FY 2023-24.

Appropriation Summary:

For FY 2023-24, the bill requires an appropriation of \$913,019 to the Department of Public Health and Environment.

Fiscal Note Status:

The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 23-1221

| | | Budget Year FY 2023-24 | Out Year FY 2024-25 |
|-----------------------------|---------------------------|---------------------------|------------------------|
| Revenue | | - | - |
| Expenditures | General Fund | \$913,019 | \$1,084,507 |
| | Centrally Appropriated | \$103,826 | \$136,967 |
| | Total Expenditures | \$1,016,845 | \$1,221,474 |
| | Total FTE | 5.9 FTE | 7.7 FTE |
| Transfers | | - | - |
| Other Budget Impacts | General Fund Reserve | \$136,953 | \$162,676 |

Summary of Legislation

The bill requires the Department of Public Health and Environment (CDPHE) to use quality-assured data to establish the total maximum daily load for pollutants discharged into state waters beginning January 1, 2024. The bill specifies that quality-assured data are scientifically accurate, collected or analyzed recently, and consistent with applicable federal and state guidance.

State Expenditures

The bill increases state expenditures in CDPHE by \$1.0 million in FY 2023-24 and \$1.2 million in FY 2024-25, paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2
 Expenditures Under HB 23-1221**

| | FY 2023-24 | FY 2024-25 |
|--|--------------------|--------------------|
| Department of Public Health and Environment | | |
| Personal Services | \$426,359 | \$568,479 |
| Operating Expenses | \$8,640 | \$10,260 |
| Capital Outlay Costs | \$53,360 | - |
| Water Sample Tests | \$375,000 | \$450,000 |
| Travel | \$28,512 | \$34,967 |
| Legal Services | \$21,148 | \$21,148 |
| Centrally Appropriated Costs ¹ | \$103,826 | \$136,967 |
| FTE – Personal Services | 5.8 FTE | 7.6 FTE |
| FTE – Legal Services | 0.1 FTE | 0.1 FTE |
| Total Cost | \$1,016,845 | \$1,221,474 |
| Total FTE | 5.9 FTE | 7.7 FTE |

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

Department of Public Health and Environment. The bill increases expenditures in CDPHE to expand water quality testing and recalculate maximum total daily loads. Costs for staff, sampling, and travel are prorated in FY 2023-24 for the bill’s effective date.

- **Staff.** The existing Clean Water Program relies on approximately 2.0 FTE to establish total maximum daily load. It includes some sampling, but relies heavily on modeling and literature review. Increased data quality standards drive additional workload for program staff to collect samples, update total maximum daily load calculations, and perform related analysis. Collecting additional samples from water sources around the state requires an estimated 3.0 FTE beginning in FY 2023-24. Revising total maximum daily load calculations requires an additional 2.0 FTE from FY 2023-24 through FY 2025-26, decreasing to 1.0 FTE in subsequent years. In addition, the

department requires 2.5 FTE to conduct additional geographic analysis, ensure alignment with federal guidance, and engage stakeholders. Costs reflect the General Fund pay date shift.

- **Sampling.** In order to calculate total maximum daily loads using only recent data, CDPHE must collect samples more frequently in order to adhere to federal guidance. CDPHE staff will collect 1,125 additional water samples annually and send them to a state lab for testing at \$400 per test.
- **Travel.** CDPHE staff will incur travel costs, including mileage, hotel, and per diem expenses, to visit water sources for field sample collection.
- **Legal services.** The department requires 200 hours of legal services annually to develop legally defensible standards, support federal review, and represent the department in any judicial review process. Legal services are provided by the Department of Law at a rate of \$105.74 per hour.

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 2023-24, the bill requires a General Fund appropriation of \$913,019 to the Department of Public Health and Environment, and 5.8 FTE. Of this, \$21,148 is reappropriated to the Department of Law, with 0.1 FTE.

State and Local Government Contacts

Information Technology

Law

Public Health and Environment