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Fiscal Note

Drafting Number: LLS 24-0797 Date: February 28, 2024
Prime Sponsors: Rep. Rutinel; Velasco Bill Status: House Energy & Environment
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Bill Topic: CUMULATIVE IMPACTS & ENVIRONMENTAL JUSTICE

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

The bill creates the Office of Environmental Justice, creates a rapid response team to respond to air quality complaints, requires an assessment of refinery regulations, and establishes a mechanism for local governments to request stricter emissions limits. It increases state expenditures on an ongoing basis.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of \$1,829,087 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 24-1338

Table with 4 columns: Category, Budget Year FY 2024-25, Out Year FY 2025-26, and values for Revenue, Expenditures, Transfers, and Other Budget Impacts.

Summary of Legislation

The bill creates the Office of Environmental Justice, creates a rapid response team to respond to air quality complaints, requires an assessment of refinery regulations, and establishes a mechanism for local governments to request stricter emissions limits.

Office of Environmental Justice. The bill creates the office in the Department of Public Health and Environment (CDPHE) to increase state engagement with disproportionately impacted communities, develop CDPHE's environmental justice goals, support the department's water quality testing program in mobile home parks, provide translation services for the department, and generally coordinate environmental justice work across government and tribal entities in Colorado.

The bill requires the office to contract for at least two Environmental Equity and Cumulative Impact Analyses for state agencies in analyzing cumulative impacts. Each analyses evaluates a particular geographic region, as determined by the office, based on published guidance from the Environmental Justice Task Force and the federal Environmental Protection Agency.

Rapid response inspections. CDPHE must establish a rapid response inspection team to respond to air quality complaints. The team must develop best practices for responding to complaints, prioritizing complaints related to adverse effects in disproportionately impacted communities, and must conduct education and outreach in communities.

Petroleum refinery regulations. CDPHE must hire an expert in air pollution control for petroleum refineries to assess petroleum refinery control regulations and other measures. Beginning January 1, 2025, petroleum refineries must provide data to the department on emissions monitoring systems and compliance with state orders. Before that date, petroleum refineries must upgrade community-based monitoring systems to monitor certain pollutants and atmospheric conditions, as specified by the bill.

New emissions limits. Beginning January 1, 2026, the bill authorizes local governments that are cumulatively impacted by pollution to request that the Air Quality Control Commission impose limits on certain stationary sources of air pollution in their jurisdictions. The bill specifies exemptions, including emissions activities required for compliance with state or federal law or related to renewable energy production, affordable housing, or domestic wastewater treatment.

State Revenue

The bill potentially increases state revenue from gifts, grants, or donations; however, no sources have been identified at this time. Gifts, grants, and donations are exempt from TABOR revenue limits.

State Expenditures

The bill increases state expenditures in CDPHE by about \$1.9 million in FY 2024-25 and \$2.5 million in FY 2025-26, paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under HB 24-1338**

	FY 2024-25	FY 2025-26
Department of Public Health and Environment		
Personal Services	\$504,618	\$617,274
Operating Expenses	\$5,760	\$7,040
Capital Outlay Costs	\$33,350	\$6,670
Legal Services	\$310,449	\$812,927
Contractor	\$959,310	\$959,310
Travel Costs	\$15,600	\$15,600
Centrally Appropriated Costs ¹	\$99,196	\$121,288
FTE – Personal Services	4.5 FTE	5.5 FTE
FTE – Legal Services	1.3 FTE	3.5 FTE
Total Cost	\$1,928,283	\$2,540,109
Total FTE	5.8 FTE	9.0 FTE

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

Environmental Justice Office. CDPHE requires 2.0 FTE to staff the office, including setting goals and coordinating environmental justice work across departments. This workload includes soliciting the contract for the environmental equity and cumulative impacts analyses and overseeing the contractor’s work. The contractor costs in Table 2 assume that one analysis will be initiated each year and that contractor costs require roll-forward spending authority over multiple years until the analysis is published.

Rapid response team. CDPHE requires 2.0 FTE to conduct education and outreach on air pollution and to respond to air quality complaints. Travel costs include mileage to visit communities and accommodations for overnight travel as necessary.

Petroleum refinery regulation. The bill requires CDPHE to hire 1.0 FTE to provide necessary expertise on petroleum refinery regulation and to propose rules to the department as appropriate. This position is prorated for a January 1, 2025, start date.

Local government requests to limit emissions. CDPHE requires 0.5 FTE beginning in FY 2025-26 to evaluate request from local governments for eligibility and to support local governments in understanding potential regulatory actions.

Operating and capital costs. For each staff function, standard capital and operating costs are included, and are prorated for each position's start date.

Legal services. CDPHE will require legal services for general counsel to the Environmental Justice Office and to support rulemaking and regulatory actions. Based on the bill's staggered implementation timeline, this requires 2,425 hours in FY 2024-25, 6,350 hours in FY 2025-26, and 9,050 hours ongoing. Legal services are provided by the Department of Law at a rate of \$128.02 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.

Local Government

The bill increases expenditures in any local government that seeks stricter emissions limits on pollution sources in its jurisdiction to ensure that it meets the bill's conditions for making the request of CDPHE.

Effective Date

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

State Appropriations

For FY 2024-25, the bill requires a General Fund appropriation of \$1,829,087 to the Department of Public Health and Environment, and 4.5 FTE. Of this, \$310,449 is reappropriated to the Department of Law, with an additional 1.3 FTE. An estimated \$959,310 in contractor costs require roll-forward spending authority through FY 2025-26.

CDPHE made a budget request for FY 2024-25 to create a new Office of Health Equity and Environmental Justice. If that budget request is approved, some of the impacts identified in this fiscal note for the Office of Environmental Justice operations may be redundant. The fiscal note may be updated if funding included in the Long Bill affects the required resources for this bill.

