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Fiscal Note

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Prime Sponsors: Rep. Lukens; Catlin Bill Status: House Ag, Water & Natural Res.
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Bill Topic: MEASURES TO INCENTIVIZE GRAYWATER USE

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

The bill authorizes the installation of graywater systems statewide, allows local governments to prohibit graywater use locally, and creates a tax credit for 2025 through 2034 for costs for installing of graywater systems. The bill reduces state revenue beginning in FY 2024-25 and increases expenditures beginning in FY 2025-26, with impacts continuing through FY 2034-35.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 24-1362

Table with 5 columns: Category, Sub-category, Budget Year FY 2024-25, Out Year FY 2025-26, Out Year FY 2026-27. Rows include Revenue (General Fund, Total Revenue), Expenditures (General Fund, Centrally Appropriated, Total Expenditures, Total FTE), and Other Budget Impacts (TABOR Refunds, General Fund Reserve).

Summary of Legislation

The bill authorizes the installation of graywater systems and the use of graywater statewide and allows county, municipal, and consolidated city and county governments to adopt an ordinance or resolution prohibiting the installation of graywater systems for some or all categories of graywater use within their jurisdiction. Local governments must notify the Department of Public Health and Environment (CDPHE) when such a measure is adopted.

The bill also creates a state income tax credit that allows a taxpayer to claim a credit in an amount equal to 50 percent of the cost of a graywater system installation, up to \$5,000 per taxpayer. The amount of the tax credit not used to offset income tax liability may be carried forward and applied to tax liability for up to five years following the installation of the system.

Background

Graywater is water used in a residential, commercial, or industrial building that may be collected after the first use and put to a second beneficial use. There are different categories of graywater systems which incur different costs and have different uses. At the top level, graywater is used indoors for toilet flushing or outdoors for irrigation and garden watering, with different systems available including laundry-to-landscape, branched drain, pumped systems, and automated pumped systems for drip irrigation.

Graywater reuse is not legal statewide; however, local governments may authorize the use of graywater within their jurisdictions. Graywater installations and usage are regulated by the Water Quality Control Commission through rules that outline requirements, prohibitions, and standards for graywater use for non-drinking purposes. As of 2023, five cities or counties have adopted graywater use ordinances.

Assumptions

The fiscal note assumes that the majority of local governments will not take the action of adopting an ordinance to opt-out of the statewide law and prohibit graywater treatment works, as the majority of local governments have not taken the action to veer from current state law and adopt an ordinance to allow graywater use. To the extent that more local governments opt-out, revenue reductions may be less than estimated in the fiscal note.

The fiscal note assumes that tax credit claims for graywater system installations will ramp up to about 300 per year by FY 2026-27. The assumed number of tax credits is derived from the utilization of existing tax credits such as the heat pump tax credit, home modifications tax credit, and the tax credit for electric vehicles. Utilization of the graywater installation tax credit is assumed to be most closely aligned with the heat pump tax credit, as they both provide a tax credit for a portion of installation expenditures. However, it is possible that the number of tax credits claimed could be significantly more or less than the fiscal note's assumptions. To the extent that the number of claimed tax credits are more than estimated in the fiscal note, DOR personnel resources and the revenue reductions may increase.

State Revenue

The bill reduces General Fund revenue by about \$185,000 in FY 2024-25, \$570,000 in FY 2025-26, and \$779,000 in FY 2026-27. The revenue reduction will increase up to about \$1.0 million dollars by FY 2033-34, followed by a final half year-impact in FY 2034-35. The bill reduces income tax revenue, which is subject to TABOR.

Based on posted prices from greywater installation companies, it is assumed that graywater system installation costs for indoor use will be \$4,000 for single-family homes and \$10,000 or more for larger residential buildings, such that the tax credit amount would be \$2,000 for single-family homes and \$5,000 for larger residential buildings. The fiscal note assumes that 84 percent of installations will occur in single-family homes. Thus, the average tax credit amount per taxpayer is estimated at \$2,473 in FY 2024-25, an amount that is assumed to grow by inflation.

State Expenditures

The bill increases expenditures for the Department of Revenue (DOR) by about \$172,500 in FY 2025-27 and \$104,500 in FY 2026-27 and future years through FY 2034-35.

**Table 2
 Expenditures Under HB 24-1362**

	FY 2024-25	FY 2025-26	FY 2026-27
Department of Revenue			
Personal Services	-	\$76,994	\$76,994
Operating Expenses	-	\$1,280	\$1,280
Capital Outlay Costs	-	\$6,670	-
GenTax Programming and Testing	-	\$47,190	-
Office of Research and Analysis	-	\$7,392	\$7,328
Document Management (Paid to DPA)	-	\$14,120	\$24
Centrally Appropriated Costs ¹	-	\$18,839	\$18,839
Total Cost	-	\$172,484	\$104,464
Total FTE	-	1.0 FTE	1.0 FTE

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

Department of Revenue. The DOR requires staff and other related expenditures to implement the tax credit.

- **Analyst.** DOR requires 1.0 FTE analyst to work with CDPHE and stakeholders to determine what qualifies as graywater treatment works and assist with the implementation of the tax credit. Since no other agency is required to certify the graywater installation expenditures, DOR must review, vet, and manually register each claim for credit for the purposes of verification and tracking of the income tax credit. Registration of the income tax credit is needed to track the income tax credit over time since it can be carried forward up to 5 years.
- **GenTax programming and testing.** For FY 2025-26, the bill will require changes to DOR's GenTax software system. This includes \$27,810 in GenTax programming costs, \$13,300 in development and testing in support of the GenTax programming, and \$6,080 in business and user acceptance testing following the GenTax programming.
- **Office of Research and Analysis.** The Office of Research and Analysis within the Department of Revenue will perform 231 hours of work at a rate of \$32 per hour in FY 2025-26, and 229 hours of work in future years, to update database fields and conduct ongoing reporting.
- **Document management.** For FY 2025-26, DOR will incur \$14,120 in document management costs, which are reappropriated to the Department of Personnel and Administration. This includes one-time changes to existing forms and the creation of a new tax form, plus minor ongoing Integrated Document Solutions (IDS) costs including \$24 in FY 2026-27, \$42 in FY 2027-28, and \$51 in FY 2028-29. The population workload impact is expected to be minimal and absorbable.

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

TABOR refunds. In FY 2024-25 and FY 2025-26, the bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the March 2024 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. Because TABOR refunds are paid from the General Fund, decreased General Fund revenue will decrease the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save for years that General Fund revenue is above the TABOR limit.

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. The bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1.

Local Government

Workload may be increased for counties and municipalities to update regulations and adopt resolutions and/or ordinances if they choose to prohibit graywater treatment works in their jurisdictions. For local governments that do not permit graywater treatment works under current law, there may be increased costs for inspections of graywater systems.

Effective Date

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

State and Local Government Contacts

Counties	Municipalities	Natural Resources
Public Health and Environment	Revenue	State Auditor

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).