

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0522.01 Jennifer Berman x3286

HOUSE BILL 24-1362

HOUSE SPONSORSHIP

Lukens and Catlin, McCluskie, Frizell

SENATE SPONSORSHIP

Roberts and Simpson,

House Committees

Agriculture, Water & Natural Resources

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO PROMOTE THE USE OF GRAYWATER.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under current law, a board of county commissioners or governing body of a municipality (local government) may authorize the use of graywater within its jurisdiction. Graywater refers to certain types of wastewater that is collected from fixtures before it is treated and put to certain beneficial uses.

The bill authorizes the installation of graywater treatment works and the use of graywater statewide; except that a local government:

- May adopt an ordinance or a resolution prohibiting the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

installation of graywater treatment works or the use of all graywater or categories of graywater use within its jurisdiction; and

- Shall notify the division of administration in the department of public health and environment of any such local ordinance or resolution adopted.

To incentivize the installation of graywater treatment works within a residential building for indoor water reuse, the bill also creates a state income tax credit that allows a taxpayer to claim a credit up to 50% of the cost of such an installation or up to \$5,000, whichever amount is less.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25-8-205.4 as
3 follows:

4 **25-8-205.4. Statewide authorization of graywater use - local**
5 **government notice required to opt out.** (1) EXCEPT AS PROVIDED IN
6 SUBSECTION (2) OF THIS SECTION, A PERSON MAY INSTALL GRAYWATER
7 TREATMENT WORKS AND USE GRAYWATER IN ACCORDANCE WITH SECTION
8 25-8-205 (1)(g) AND RULES ADOPTED PURSUANT TO SECTION 25-8-205
9 (1)(g).

10 (2) (a) A BOARD OF COUNTY COMMISSIONERS OR GOVERNING BODY
11 OF A MUNICIPALITY MAY ADOPT A RESOLUTION OR AN ORDINANCE
12 PURSUANT TO SECTION 30-11-107 (1)(kk) OR 31-15-601 (1)(m):

13 (I) PROHIBITING THE INSTALLATION OF GRAYWATER TREATMENT
14 WORKS AND THE USE OF ALL GRAYWATER IN THE COUNTY OR
15 MUNICIPALITY; OR

16 (II) PROHIBITING ONE OR MORE CATEGORIES OF GRAYWATER USE
17 THAT THE COMMISSION ESTABLISHES IN RULES ADOPTED PURSUANT TO
18 SECTION 25-8-205 (1)(g).

19 (b) A BOARD OF COUNTY COMMISSIONERS OR GOVERNING BODY OF
20 A MUNICIPALITY THAT ADOPTS A RESOLUTION OR AN ORDINANCE

1 PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION SHALL NOTIFY THE
2 DIVISION THAT THE BOARD OF COUNTY COMMISSIONERS OR GOVERNING
3 BODY OF A MUNICIPALITY PROHIBITS THE USE OF ALL GRAYWATER OR
4 PROHIBITS CERTAIN CATEGORIES OF GRAYWATER USE IN THE COUNTY OR
5 MUNICIPALITY.

6 (3) A BOARD OF COUNTY COMMISSIONERS OR GOVERNING BODY OF
7 A MUNICIPALITY THAT SENDS A NOTICE PURSUANT TO SUBSECTION (2)(b)
8 OF THIS SECTION MAY SUBSEQUENTLY ADOPT A RESOLUTION PURSUANT TO
9 SECTION 30-11-107 (1)(kk) OR AN ORDINANCE PURSUANT TO SECTION
10 31-15-601 (1)(m) TO AUTHORIZE THE INSTALLATION OF GRAYWATER
11 TREATMENT WORKS AND THE USE OF GRAYWATER OR TO AUTHORIZE
12 CATEGORIES OF GRAYWATER USE PREVIOUSLY PROHIBITED. A BOARD OR
13 GOVERNING BODY THAT SUBSEQUENTLY AUTHORIZES THE USE OF
14 GRAYWATER PURSUANT TO THIS SUBSECTION (3) SHALL PROMPTLY NOTIFY
15 THE DIVISION OF THE SUBSEQUENT AUTHORIZATION.

16 **SECTION 2.** In Colorado Revised Statutes, 30-11-107, **amend**
17 (1)(kk) as follows:

18 **30-11-107. Powers of the board.** (1) The board of county
19 commissioners of each county has power at any meeting:

20 (kk) (I) To adopt a resolution, ~~to authorize~~, in consultation with
21 the local board of health, local public health agencies, and any water and
22 wastewater service providers serving the county, REGARDING the use of
23 graywater, as defined in section 25-8-103 (8.3), ~~C.R.S.~~, in compliance
24 with any regulation adopted pursuant to section 25-8-205 (1)(g), ~~C.R.S.~~,
25 and to enforce compliance with the board's resolution. A BOARD OF
26 COUNTY COMMISSIONERS:

27 (A) MAY ADOPT A RESOLUTION PROHIBITING THE INSTALLATION

1 OF GRAYWATER TREATMENT WORKS, AS DEFINED IN SECTION 25-8-103
2 (8.4), AND THE USE OF ALL GRAYWATER OR PROHIBITING ONE OR MORE
3 CATEGORIES OF GRAYWATER USE THAT THE WATER QUALITY CONTROL
4 COMMISSION ESTABLISHES IN RULES ADOPTED PURSUANT TO SECTION
5 25-8-205 (1)(g); AND

6 (B) PURSUANT TO SECTION 25-8-205.4 (2)(b), SHALL NOTIFY THE
7 DIVISION OF ADMINISTRATION WITHIN THE DEPARTMENT OF PUBLIC
8 HEALTH AND ENVIRONMENT OF ANY RESOLUTION ADOPTED PURSUANT TO
9 SUBSECTION (1)(kk)(I)(A) OF THIS SECTION. A BOARD OF COUNTY
10 COMMISSIONERS THAT SENDS NOTICE PURSUANT TO THIS SUBSECTION
11 (1)(kk)(I)(B) MAY SUBSEQUENTLY AUTHORIZE THE INSTALLATION OF
12 GRAYWATER TREATMENT WORKS AND THE USE OF GRAYWATER OR
13 AUTHORIZE CATEGORIES OF GRAYWATER USE PREVIOUSLY PROHIBITED AT
14 ANY TIME BY ADOPTING A RESOLUTION. A BOARD OF COUNTY
15 COMMISSIONERS THAT SUBSEQUENTLY AUTHORIZES THE USE OF
16 GRAYWATER SHALL PROMPTLY NOTIFY THE DIVISION OF ADMINISTRATION
17 WITHIN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OF THE
18 SUBSEQUENT AUTHORIZATION.

19 (II) ~~Before adopting a resolution to authorize the use of graywater~~
20 ~~pursuant to subparagraph (I) of this paragraph (kk),~~ A board of county
21 commissioners THAT HAS NOT PROHIBITED ALL GRAYWATER USE
22 PURSUANT TO SUBSECTION (1)(kk)(I) OF THIS SECTION is encouraged to
23 enter into a memorandum of understanding with the local board of health,
24 local public health agencies, and any water and wastewater service
25 providers serving the county concerning graywater usage and the proper
26 installation and operation of graywater treatment works, as defined in
27 section 25-8-103 (8.4). ~~C.R.S.~~

1 **SECTION 3.** In Colorado Revised Statutes, 31-15-601, **amend**
2 (1)(m) as follows:

3 **31-15-601. Building and fire regulations - emission**
4 **performance standards required - reporting.** (1) The governing bodies
5 of municipalities have the following powers in relation to building and
6 fire regulations:

7 (m) (I) To adopt an ordinance, ~~to authorize~~, in consultation with
8 the local board of health, local public health agencies, and any water and
9 wastewater service providers serving the municipality, REGARDING the
10 use of graywater, as defined in section 25-8-103 (8.3), ~~C.R.S.~~, in
11 compliance with any regulation adopted pursuant to section 25-8-205
12 (1)(g), ~~C.R.S.~~, and to enforce compliance with the governing body's
13 ordinance. THE GOVERNING BODY OF A MUNICIPALITY:

14 (A) MAY ADOPT AN ORDINANCE PROHIBITING THE INSTALLATION
15 OF GRAYWATER TREATMENT WORKS, AS DEFINED IN SECTION 25-8-103
16 (8.4), AND THE USE OF ALL GRAYWATER OR PROHIBITING ONE OR MORE
17 CATEGORIES OF GRAYWATER USE THAT THE WATER QUALITY CONTROL
18 COMMISSION ESTABLISHES IN RULES ADOPTED PURSUANT TO SECTION
19 25-8-205 (1)(g); AND

20 (B) PURSUANT TO SECTION 25-8-205.4 (2)(b), SHALL NOTIFY THE
21 DIVISION OF ADMINISTRATION WITHIN THE DEPARTMENT OF PUBLIC
22 HEALTH AND ENVIRONMENT OF ANY ORDINANCE ADOPTED PURSUANT TO
23 SUBSECTION (1)(m)(I)(A) OF THIS SECTION. A GOVERNING BODY OF A
24 MUNICIPALITY THAT SENDS NOTICE PURSUANT TO THIS SUBSECTION
25 (1)(m)(I)(B) MAY SUBSEQUENTLY AUTHORIZE THE INSTALLATION OF
26 GRAYWATER TREATMENT WORKS AND THE USE OF GRAYWATER OR
27 AUTHORIZE CATEGORIES OF GRAYWATER USE PREVIOUSLY PROHIBITED AT

1 ANY TIME BY ADOPTING AN ORDINANCE. A GOVERNING BODY OF A
2 MUNICIPALITY THAT SUBSEQUENTLY AUTHORIZES THE USE OF GRAYWATER
3 SHALL PROMPTLY NOTIFY THE DIVISION OF ADMINISTRATION WITHIN THE
4 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OF THE SUBSEQUENT
5 AUTHORIZATION.

6 (II) ~~Before adopting an ordinance to authorize the use of~~
7 ~~graywater pursuant to subparagraph (I) of this paragraph (m), the A~~
8 municipal governing body THAT HAS NOT PROHIBITED ALL GRAYWATER
9 USE PURSUANT TO SUBSECTION (1)(m)(I) OF THIS SECTION is encouraged
10 to enter into a memorandum of understanding with the local board of
11 health, local public health agencies, and any water and wastewater service
12 providers serving the municipality concerning graywater usage and the
13 proper installation and operation of graywater treatment works, as defined
14 in section 25-8-103 (8.4). ~~C.R.S.~~

15 **SECTION 4.** In Colorado Revised Statutes, 25-8-205, **amend**
16 (1)(g) as follows:

17 **25-8-205. Control regulations.** (1) The commission may
18 promulgate control regulations for the following purposes:

19 (g) (I) To describe requirements, prohibitions, and standards for
20 the use of graywater for nondrinking purposes, to encourage the use of
21 graywater, and to protect public health and water quality.

22 (II) ~~Except as authorized in section 25-8-205.3, graywater may be~~
23 ~~used only in areas where the local city, city and county, or county has~~
24 ~~adopted an ordinance or resolution approving the use of graywater~~
25 ~~pursuant to section 30-11-107 (1)(kk) or 31-15-601 (1)(m). The A city,~~
26 city and county, or county that has adopted an ordinance or resolution
27 **approving** REGARDING the use of graywater pursuant to section 30-11-107

1 (1)(kk) or 31-15-601 (1)(m) has exclusive enforcement authority
2 regarding compliance with the ordinance or resolution.

3 (III) Use of graywater ~~shall be~~ IS allowed only in accordance with
4 the terms and conditions of the decrees, contracts, and well permits
5 applicable to the use of the source water rights or source water and any
6 return flows ~~therefrom~~ FROM THE SOURCE WATER, and ~~no use of~~
7 graywater USE shall NOT be allowed IN A MANNER that ~~would~~ IS not be
8 allowed under such decrees, contracts, or permits. ~~if the graywater~~
9 ~~ordinance or resolution did not exist.~~

10 (IV) ~~A local city, city and county, or county may only authorize~~
11 ~~the use of graywater in accordance with federal, state, and local~~
12 ~~requirements.~~

13 **SECTION 5.** In Colorado Revised Statutes, 25-8-205.3, **repeal**
14 (2)(c) as follows:

15 **25-8-205.3. Exemption from control regulations for graywater**
16 **research - definition.** (2) A person collecting, treating, or using
17 graywater pursuant to this section:

18 (c) ~~May collect, treat, and use the graywater in an area that is not~~
19 ~~within the jurisdiction of any city, city and county, or county that has~~
20 ~~adopted an ordinance or resolution authorizing graywater use pursuant to~~
21 ~~section 25-8-205 (1)(g)(H);~~

22 **SECTION 6.** In Colorado Revised Statutes, **add** 39-22-560 as
23 follows:

24 **39-22-560. Tax credit for installing graywater treatment**
25 **works in a residential building for indoor water reuse - tax**
26 **preference performance statement - legislative declaration -**
27 **definition - report - repeal.** (1) (a) THE GENERAL ASSEMBLY FINDS AND

1 DECLARES THAT:

2 (I) GRAYWATER USE IS RECOGNIZED IN THE STATE WATER PLAN
3 ADOPTED PURSUANT TO SECTION 37-60-106.3 AS AN IMPORTANT WATER
4 CONSERVATION MEASURE THAT COLORADO COMMUNITIES MAY
5 IMPLEMENT TO MAXIMIZE WATER SUPPLIES;

6 (II) IF GRAYWATER TREATMENT WORKS ARE INSTALLED AT A HOME
7 OR BUSINESS, THE AMOUNT OF WATER NEEDED TO OPERATE THE HOME OR
8 BUSINESS IS REDUCED; AND

9 (III) THE PURPOSE OF THE TAX CREDIT AUTHORIZED UNDER
10 SUBSECTION (3) OF THIS SECTION IS TO INCENTIVIZE THE VOLUNTARY
11 INSTALLATION OF GRAYWATER TREATMENT WORKS IN RESIDENTIAL
12 BUILDINGS FOR INDOOR WATER REUSE.

13 (b) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH
14 REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE
15 A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY
16 LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY FURTHER FINDS AND
17 DECLARES THAT:

18 (I) THE GENERAL LEGISLATIVE PURPOSE OF THE TAX CREDIT
19 AUTHORIZED UNDER SUBSECTION (3) OF THIS SECTION IS TO INDUCE
20 CERTAIN DESIGNATED BEHAVIORS BY TAXPAYERS, SPECIFICALLY THE
21 INSTALLATION OF GRAYWATER TREATMENT WORKS IN RESIDENTIAL
22 BUILDINGS FOR INDOOR WATER REUSE; AND

23 (II) IN ORDER TO ALLOW THE GENERAL ASSEMBLY AND THE STATE
24 AUDITOR TO MEASURE THE EFFECTIVENESS OF THE TAX CREDIT, THE
25 DEPARTMENT OF REVENUE SHALL SUBMIT TO THE GENERAL ASSEMBLY
26 AND THE STATE AUDITOR AN ANNUAL REPORT IN ACCORDANCE WITH
27 SUBSECTION (5) OF THIS SECTION DETAILING THE INSTALLATION OF

1 GRAYWATER TREATMENT WORKS IN RESIDENTIAL BUILDINGS FOR INDOOR
2 WATER REUSE, AS REPORTED BY TAXPAYERS CLAIMING THE TAX CREDIT
3 AUTHORIZED UNDER SUBSECTION (3) OF THIS SECTION.

4 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
5 REQUIRES, "GRAYWATER TREATMENT WORKS" HAS THE MEANING SET
6 FORTH IN SECTION 25-8-103 (8.4).

7 (3) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
8 JANUARY 1, 2025, BUT BEFORE JANUARY 1, 2035, AND EXCEPT AS
9 PROVIDED IN SUBSECTION (3)(b) OF THIS SECTION, A TAXPAYER IS
10 ALLOWED A TAX CREDIT AGAINST THE TAX IMPOSED PURSUANT TO THIS
11 ARTICLE 22 IN AN AMOUNT EQUAL TO FIFTY PERCENT OF THE AGGREGATE
12 COST FOR PURCHASING AND INSTALLING GRAYWATER TREATMENT WORKS
13 IN A RESIDENTIAL BUILDING FOR INDOOR WATER REUSE.

14 (b) A TAXPAYER MAY ONLY CLAIM A TAX CREDIT PURSUANT TO
15 SUBSECTION (3)(a) OF THIS SECTION IN AN AMOUNT UP TO FIVE THOUSAND
16 DOLLARS IN A SINGLE INCOME TAX YEAR.

17 (4) IF THE AMOUNT OF A TAX CREDIT AUTHORIZED UNDER
18 SUBSECTION (3) OF THIS SECTION EXCEEDS A TAXPAYER'S ACTUAL TAX
19 LIABILITY FOR AN INCOME TAX YEAR, THE AMOUNT OF THE TAX CREDIT
20 NOT USED TO OFFSET INCOME TAX LIABILITY FOR THAT INCOME TAX YEAR
21 IS NOT REFUNDED TO THE TAXPAYER. THE TAXPAYER MAY CARRY
22 FORWARD AND APPLY THE UNUSED TAX CREDIT AGAINST THE INCOME TAX
23 THAT THE TAXPAYER OWES IN EACH OF THE FIVE SUCCEEDING INCOME TAX
24 YEARS, BUT THE TAXPAYER SHALL APPLY THE TAX CREDIT AGAINST THE
25 INCOME TAX DUE FOR THE EARLIEST OF THE INCOME TAX YEARS POSSIBLE.
26 ANY AMOUNT OF THE TAX CREDIT THAT REMAINS AFTER THIS PERIOD IS
27 NOT REFUNDABLE AND SHALL NOT BE CREDITED TO THE TAXPAYER.

1 (5) PURSUANT TO SECTION 39-21-304 (3), NOTWITHSTANDING
2 SECTION 24-1-136 (11)(a)(I), AND FOR THE PURPOSE OF PROVIDING DATA
3 THAT ALLOWS THE GENERAL ASSEMBLY AND THE STATE AUDITOR TO
4 MEASURE THE EFFECTIVENESS OF THE TAX CREDIT CREATED IN
5 SUBSECTION (3) OF THIS SECTION, THE DEPARTMENT OF REVENUE, ON OR
6 BEFORE JANUARY 1, 2026, AND ON OR BEFORE JANUARY 1 OF EACH YEAR
7 THEREAFTER THROUGH JANUARY 1, 2036, SHALL SUBMIT TO THE GENERAL
8 ASSEMBLY AND THE STATE AUDITOR A REPORT DETAILING THE
9 INSTALLATION OF GRAYWATER TREATMENT WORKS, AS REPORTED BY
10 TAXPAYERS CLAIMING THE TAX CREDIT AUTHORIZED UNDER SUBSECTION
11 (3) OF THIS SECTION. THE TAX CREDIT ESTABLISHED IN THIS SECTION
12 MEETS ITS PURPOSE IF THE NUMBER OF GRAYWATER TREATMENT WORKS
13 THAT ARE INSTALLED IN RESIDENTIAL BUILDINGS FOR INDOOR WATER
14 REUSE WITHIN FIVE YEARS AFTER THE TAX CREDIT BECOMES EFFECTIVE IS
15 SIGNIFICANTLY HIGHER THAN THE NUMBER OF GRAYWATER TREATMENT
16 WORKS THAT HAVE BEEN INSTALLED IN RESIDENTIAL BUILDINGS FOR
17 INDOOR WATER USE DURING THE FIVE YEARS BEFORE THE TAX CREDIT
18 BECOMES EFFECTIVE, AS DETERMINED BY THE GENERAL ASSEMBLY AND
19 THE STATE AUDITOR PURSUANT TO SECTION 39-21-304 (3).

20 (6) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2041.

21 **SECTION 7. Act subject to petition - effective date.** This act
22 takes effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly; except
24 that, if a referendum petition is filed pursuant to section 1 (3) of article V
25 of the state constitution against this act or an item, section, or part of this
26 act within such period, then the act, item, section, or part will not take
27 effect unless approved by the people at the general election to be held in

1 November 2024 and, in such case, will take effect on the date of the
2 official declaration of the vote thereon by the governor.