



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 22-0550	Date:	July 29, 2022
Prime Sponsors:	Rep. Young; Pelton Sen. Lee; Simpson	Bill Status:	Signed into Law
		Fiscal Analyst:	Erin Reynolds 303-866-4146 Erin.Reynolds@state.co.us

Bill Topic: **BEHAVIORAL HEALTH ADMINISTRATION**

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Transfer and Diversion	<input type="checkbox"/> Statutory Public Entity

The bill creates the Behavioral Health Administration in the Department of Human Services. It will increase state expenditures and divert revenue from the General Fund on an ongoing basis. It transfers programs between state agencies, resulting in no net change in costs for those functions. The bill also suspends the Opioid and Other Substance Use Disorders Study Committee for the 2022 interim, reducing state expenditures in FY 2022-23.

Appropriation Summary: For FY 2022-23, on net, the bill requires and includes appropriations of \$4.3 million to multiple state agencies. See State Appropriations section for detail.

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

**Table 1
State Fiscal Impacts Under HB 22-1278**

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		-	-
Expenditures	General Fund	\$3,879,504	\$5,460,001
	Cash Funds	\$142,766	\$130,366
	Federal Funds	\$246,399	\$251,583
	Centrally Appropriated	\$99,344	\$156,481
	Total Expenditures	\$4,368,013	\$5,998,431
	Total FTE	31.7 FTE	46.0 FTE
Diversions	General Fund	(\$174,250)	(\$161,850)
	Cash Funds	\$174,250	\$161,850
	Net Diversion	\$0	\$0
Other Budget Impacts	General Fund Reserve	\$581,926	\$819,000

Summary of Legislation

The bill creates the Behavioral Health Administration (BHA) in the Department of Human Services (CDHS) and charges it with creating a coordinated, cohesive, and effective behavioral health system in Colorado. Any state agency that administers a behavioral health program (state agency) is required to collaborate with the BHA.

Part 1: Behavioral Health Administration

Commissioner and board authority. The bill establishes the role of the BHA commissioner, to be appointed by the Governor, and outlines the commissioner's duties and privileges, which include the ability to set commissioner rules. The bill establishes the State Board of Human Services as the primary rulemaking authority and Type 1 board for the BHA. The bill also defines terms, including for behavioral health entity and priority populations.

Transfer of functions to the BHA. The BHA is required to administer a variety of existing programs, most of which are currently administered by the Office of Behavioral Health in the CDHS (See Section 27-50-105 for a list of programs and services). Of the programs to be administered by the BHA, the regulation of recovery residences and the licensing of behavioral health entities are transferred from the Department of Public Health and Environment (CDPHE). The CDPHE will continue issuing and renewing behavioral health entity licenses until June 30, 2023, and continue compliance monitoring and enforcement activities through June 30, 2024; the BHA will begin licensing functions on July 1, 2023. As of July 1, 2024, all CDPHE rules transfer to the BHA and all behavioral health entities must be licensed by, and in compliance with the rules and orders of, the State Board of Human Services. The Behavioral Health Entity Cash Fund in the CDHPE repeals July 1, 2024, and the state treasurer is required to transfer all funding to the CDHS.

Block grant administration. The BHA is required to formulate a comprehensive state plan for substance abuse disorder treatment and mental health services programs for the purpose of receiving federal designation to administer block grant funding.

System-wide behavioral health grievance system. The BHA is required to create a behavioral health grievance system to address grievances across payers, behavioral health administrative services organizations (BHASOs), managed care entities, and providers by July 1, 2024, with input from the BHA Advisory Council, its subcommittees, and stakeholders, and to publish an annual grievance report. To facilitate this process, the BHA is required to execute formal data sharing agreements with, at a minimum, the Department of Health Care Policy and Financing (HCPF), the CDPHE, and the Child Protection Ombudsman.

Part 2: Behavioral Health System Monitoring

Behavioral health performance monitoring. By July 1, 2024, the BHA is required to establish a performance monitoring system to track capacity and performance of all behavioral health providers, including contract providers; set minimum performance standards for treatment of children, youth, and adults in collaboration with state agencies administering behavioral health programs following criteria outlines in the bill; and collaborate with HCPF to align performance metrics and standards for providers, managed care entities, and BHASOs to the greatest extent possible, and to establish data collection and reporting requirements. Compliance with these requirements must be enforced

through the development of universal contracting provisions for behavioral health providers, designation of BHASOs, and licensing standards. The BHA is required to create public-facing system accountability platforms to provide performance reporting.

Formal agreements. By July 1, 2023, the BHA must collaborate with state agencies and tribal governments in order to implement formal agreements to provide the structure for implementing behavioral health standards. Agreements must be reviewed annually and updated as necessary, and may be expanded to other state agencies and branches of government as needed.

Universal contracting provisions. By July 1, 2023, the BHA must work with HCPF, in collaboration with relevant stakeholders and other state agencies to develop universal contracting provisions to be used by state agencies when contracting for behavioral health services. The bill outlines requirements to be addressed. The universal contracting provisions may include alternate standardized provisions, depending on the application. Additional terms not included in the universal contracting provisions may be negotiated and added by the contracting parties.

Behavioral Health System Plan. The BHA is required to prepare and submit an annual report, the Behavioral Health System Plan, to the legislature beginning October 1, 2022, and as part of its SMART Act hearing beginning January 1, 2023.

Part 3: Behavioral Health Safety Net System

Behavioral health safety net system and provider network. By July 1, 2024, the BHA, in collaboration with HCPF and the CDPHE, must establish a behavioral health safety net system to ensure access to services for children, youth, and adults, as outlined in the bill, including proactive engagement of low-income, high behavioral health needs populations. The BHA must ensure that each state region includes a network of providers and behavioral health administrative services organizations (described below) that offer the continuum of behavioral health services and provide technical assistance, and allows the BHA to promulgate rules or determine other appropriate processes to approve behavioral health providers as safety net providers. The bill outlines safety net services that must be provided by safety net providers, and how providers must refer and track individuals where services required exceed a provider's capacity or clinical expertise. The BHA must assess funding adequacy when routinely assessing the services available regionally and statewide. Finally, providers are subject performance monitoring and data collection requirements.

Safety net services for priority populations. Priority population clients must be initially screened and triaged by providers to determine urgency and appropriateness of care using standardized criteria. The bill outlines the process for priority population client referrals.

Part 4: Behavioral Health Administrative Services Organizations

Behavioral Health Administrative Services Organizations. By July 1, 2024, the BHA commissioner must select and contract with regionally based behavioral health organizations to establish, administer, and maintain adequate networks of behavioral health safety net services and care coordination. At least once every five years, the commissioner must solicit applications from organizations applying to become BHASOs through a competitive bid process, following selection criteria outlined in the bill, including regarding compliance with conflict of interest policies. The bill

also outlines requirements for contracting, building and structural compliance, a stakeholder input process, reporting, and corrective actions.

Care coordination. BHASOs and managed care entities have shared responsibility of providing care coordination services for individuals utilizing the behavioral health safety net system. The BHA must establish objective and standardized processes for care coordination, as outlined in the bill.

Part 5: Behavioral Health Entities

Behavioral health entity licensing and penalties. Effective July 1, 2023, behavioral health licensing moves under the purview and enforcement of the BHA from the CDPHE. The existing unclassified misdemeanor for any person or entity operating without a license, punishable by a criminal fine of \$50 to \$500, is relocated under BHA statutes. In addition to criminal fines, the BHA may assess a civil penalty of \$50 to \$100 per violation day, credited to the General Fund, for each day of the violation.

Structural compliance. The BHA is prohibited from issuing or renewing any license unless it receives a certificate of compliance for the applicant's building or structure from the Division of Fire Prevention and Control in the Department of Public Safety.

Minimum standards. By April 30, 2023, the BHA must promulgate rules regarding minimum standards for behavioral health entities including, but not limited to: consumer health and safety rules, service-specific requirements, inspection procedures and corrective actions, acceptable criminal histories for employment, and compliance timelines, as well as specific requirements for comprehensive community behavioral health providers. The bill also outlines the criteria for the commissioner's approval or rejection of behavioral health safety net providers, hospitals, and other facilities. The BHA may promulgate rules regarding additional competencies for serving priority populations.

Inspections. The BHA is required to inspect all licensed facilities and, as in current law, must require all owners and managers to submit fingerprints to the Colorado Bureau of Investigation for a criminal history record check. Applicants for employment with a behavioral health entity are also required to submit to a criminal history record check paid for by the entity, not to be conducted more than 90 days prior to employment.

Fees and cash fund. By April 30, 2023, the BHA must establish a licensing fee schedule. Licensing fees are credited to the newly created Behavioral Health Licensing Cash Fund. The BHA may use fee revenue to provide or contract for the provision of technical assistance and education to behavioral health entities regarding legal compliance and regulatory and administrative functions. The money in the cash fund is subject to annual appropriation and remains in the fund at the end of any state fiscal year.

Licensure denials and revocations. The BHA may deny, suspend, revoke, or refuse to renew any license for a person or entity that is out of compliance with state law and BHA rule, following a hearing. The bill outlines intermediary restrictions that may be placed on a licensee, including civil fines up to \$2,000 in a calendar year.

Purchase of behavioral health services and mill levy allowance. The bill permits licensed providers to enter into agreements with courts, counties, municipalities, school districts, and other political subdivisions. To purchase behavioral health services, the bill permits boards of county commissioners and city and county councils to levy a tax not to exceed two mills upon real property subject to voter approval.

Mandatory reports. The bill outlines incident reporting that must be submitted to the BHA.

Part 6: Network Standards

State agency network standards requirements. All state agencies administering community-based behavioral health programs, including HCPF, must align all community-based behavioral health programs and networks with the behavioral health continuum of care, safety net services, and care coordination provider standards, and are required to have all providers enter into a contract developed with the universal contracting provisions. The BHA must collaborate with HCPF to support the early and periodic screening, diagnostic, and treatment benefit access and provider network. While assessing and standardizing provider networks, the Division of Insurance (DOI) in the Department of Regulatory Agencies (DORA), is also directed to align those networks with the behavioral health continuum of care, safety net services, and care coordination provider standards.

Part 7: Behavioral Health Administration Advisory Council

Advisory Council. The BHA Advisory Council is created to assist and advise the commissioner in the development and administration of the BHA. The council consists of 15 to 20 members appointed by the commissioner for three-year terms, with some initial two-year terms, and representing lived behavioral health experience, rural communities, each tribal government, county governments, persons with disabilities, the Judicial Department, behavioral health safety net providers, persons with expertise in the behavioral health needs of children and youth, and persons with expertise in crime victimization, trauma, or adverse childhood experiences.

Regional committees. The BHA is also required to create one regional subcommittee for each BHASO region, consisting of five members for each subcommittee serving three-year terms, with some initial two-year terms. Regional subcommittee members are appointed by the commissioner and must include at least one individual with expertise in the behavioral health needs of children and youth, one individual representing a behavioral health safety net provider operating within the region, and one county commissioner in the region.

Part 8: Mental Health Programs

Veteran suicide prevention pilot program. The BHA is required to establish a Veteran Suicide Prevention Pilot Program to provide individualized treatment plans and services for 700 veterans in El Paso County and, subject to available appropriations, additional veterans in other areas of the state. The BHA must report on the program during its annual SMART Act hearing. The program repeals June 30, 2025.

Community Prevention and Early Intervention Programs

The bill transfers the following community prevention and early intervention programs—including employees, property, furniture, books, records, funds; and rules and orders—to the CDPHE effective July 1, 2022:

- alcohol and drug abuse prevention programs;
- contracted prevention and treatment programs for alcohol and drug abuse or substance use disorders;
- rural alcohol and substance abuse prevention and treatment program; and
- the Colorado Substance Use Disorders Prevention Collaborative.

Other Provisions

Minor care. The bill clarifies the processes licensed professionals need to follow when providing care to minors, including obtaining parental consent, ensuring that 12 to 14-year-olds cannot reject care when their parent and mental health professional deem it necessary, and aligning duty-to-warn provisions.

Community Mental Health Centers. The bill repeals community mental health centers (CMHCs) as a license type on July 1, 2024, and requires these centers to apply for other license types by that date.

State Board of Human Services. The bill modifies the membership on the State Board of Human Services to include a member with lived behavioral health experience, a family member of a person with behavioral health disorders, a member of an advocacy group, physician, or licensed mental health professional, in place of one of the five public-at-large members.

Opioid and Other Substance Use Disorders Study Committee. The bill suspends the committee for the 2022 interim, and allows it to meet in the 2023 and 2025 interims.

Background

House Bill 21-1097 required the CDHS to submit a plan for the creation of the BHA to the state legislature by November 1, 2021. This report and other information is available on the BHA implementation website at: <https://cdhs.colorado.gov/about-cdhs/featured-initiatives/behavioral-health-reform/change-management>.

The fiscal impacts included in this fiscal note were initially proposed as budget items from each agency. The Joint Budget Committee requested that appropriations for creating the BHA be included in this bill, rather than in the Long Bill, and thus are described in the fiscal note.

State Revenue

Beginning in FY 2023-24, about \$225,000 in licensing revenue currently received by the CDPHE will instead be received by the BHA in the newly created Behavioral Health Licensing Cash Fund. On net, no change in revenue is expected.

State Diversions and Transfers

Diversions. The bill diverts \$174,250 in FY 2022-23 and \$161,850 in FY 2023-24 from the General Fund. This revenue diversion results from increased costs in the DOI in DORA, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

Transfers. The bill requires that \$8,837,039 and 11.2 FTE for prevention services be moved from the CDHS to the CDPHE, resulting in no net change in expenditures. This includes \$47,167 General Fund, \$608,624 from the Marijuana Tax Cash Fund, and \$8,181,248 in reappropriated funds. This amount is not shown in Table 1.

In addition, at the end of FY 2023-24, any unspent and unencumbered funds remaining in the Behavioral Health Entity Cash Fund in the CDPHE will be transferred to the Behavioral Health Licensing Cash Fund in the BHA. The potential amount of this transfer has not been estimated at this time.

State Expenditures

The bill increases state expenditures in four state departments—CDHS, CDPHE, HCPF, and DORA—on an ongoing basis, primarily from the General Fund, as well as the DOI Cash Fund and federal funds. It will also reduce General Fund expenditures in the Legislative Department in FY 2022-23 only. These costs are shown in Table 2 and further detailed in Tables 3 and 4.

**Table 2
Expenditures Under HB 22-1278**

	FY 2022-23	FY 2023-24
Department of Human Services (GF)¹	\$3,709,240	\$5,139,032
FTE	25.9 FTE	38.0 FTE
Department of Public Health & Environment (GF)	(\$24,187)	\$69,385
Centrally Appropriated Costs	(\$9,133)	\$30,344
Total	(\$33,320)	\$99,729
FTE	-0.2 FTE	1.0 FTE
Department of Health Care Policy & Financing (GF/FF)	\$492,798	\$503,166
Centrally Appropriated Costs	\$85,933	\$94,653
Total	\$578,731	\$597,819
FTE	4.5 FTE	5.0 FTE
Department of Regulatory Agencies (DOI Cash Fund)	\$142,766	\$130,366
Centrally Appropriated Costs	\$31,484	\$31,484
Total	\$174,250	\$161,850
FTE	2.0 FTE	2.0 FTE
Legislative Department (GF)	(\$51,948)	-
Centrally Appropriated Costs	(\$8,940)	-
Total	(\$60,888)	-
FTE	(0.5 FTE)	-
Grand Total	\$4,368,013	\$5,998,431
Total Appropriation	\$4,268,669	\$5,841,950
Total FTE	31.7 FTE	46.0 FTE

¹ Pursuant to common policies, the CDHS' centrally appropriated costs are included in the bill's appropriation because the bill requires over 20 FTE.

Department of Human Services

Creation of the BHA will increase General Fund expenditures in the CDHS by \$3.7 million and 25.9 FTE in FY 2022-23 and \$5.1 million and 38.0 FTE in FY 2023-24. As shown in Table 3 below, these costs include new staff in the BHA itself, as well as support and central services in the CDHS. Out year costs for the program will be addressed through the annual budget process as implementation of the BHA proceeds. Costs during the first two years are discussed in more detail below by subject area.

Behavioral Health Administration. Costs in the BHA include a number of new functional areas and duties, as described below.

- **Finance.** Finance includes a variety of functions including budgeting, accounting, contracting, grants, and provider rate analysis. Current OBH staff with related functions will transition to this functional area of the BHA. Of these functions, provider rate analysis represents a new responsibility not currently performed within Community Behavioral Health at the CDHS. This new function is necessary for the BHA to understand and direct multi-payer fiscal policy and utilization trends and to make recommendations to changes in policy to promote improved access and quality. Other positions, such as budget, accounting, and contracting, will provide support. A total of 6.0 new FTEs will support these finance-related duties, including a chief financial officer (1.0 FTE), a rate and financial analyst (1.0 FTE), a contract administrator (1.0 FTE), accountants (2.0 FTE), and a legislative/policy budget analyst (1.0 FTE).
- **Quality and standards.** In addition to the current staff at the OBH that supports oversight of several aspects of the behavioral health system, the BHA will require additional resources focused on evaluating and promoting the use of clinical best practices statewide. Additionally, the BHA will have dedicated resources focused on ensuring managed care practices in the state support access to high-quality services. These resources will collaborate extensively with HCPF and the DOI to ensure data-informed decision making and stakeholder input is reflected in state policy related to the oversight of managed care entities. A total of 6.0 new FTEs will support these quality and standard duties, including a director (1.0 FTE), program assistants (2.0 FTE), a clinical behavioral specialist (1.0 FTE), a compliance specialist (1.0 FTE), and a liaison (1.0 FTE).
- **Statewide programs, technical assistance, and innovation.** Building on the community behavioral health programs currently administered by the OBH, the BHA will also add dedicated resources with a focus on workforce development, providing technical assistance throughout the behavioral health delivery system, and providing system navigation support for individuals that are unable to successfully connect to services through their current payer source. A total of 5.0 new FTEs will support these new initiatives, including a director (1.0 FTE), managers (2.0 FTE), liaison staff (1.0 FTE), and a community and economic development specialist (1.0 FTE).
- **Strategy, planning, and engagement.** This area primarily supports new state functions added to the BHA, including statewide grievance support (analysis, resolution, and future policy recommendations to remediate trends in grievances), stakeholder and community engagement to gather local and consumer perspectives, and interagency liaisons to ensure cohesive collaborative strategy development and implementation across the multiple agencies that interact with the behavioral health system. A total of 2.0 new FTEs will support these strategy, planning, and engagement functions, including a director (1.0 FTE) and a program assistant (1.0 FTE).

- **Data strategy and analytics.** The BHA will enhance data and analytics capabilities that currently exist in the OBH and requires a data manager (1.0 FTE) to inform and support the statewide behavioral health data strategy.
- **Leadership and operations.** The BHA leadership team and critical support staff such as marketing and outreach, legal, and administrative support for the Advisory Council are included in this area. A total of 9.0 new FTEs are included for leadership and operations, including the commissioner (1.0 FTE), the deputy commissioner of children and youth services (1.0 FTE), an operations director (1.0 FTE), a communications manager (1.0 FTE), a legislative liaison (1.0 FTE), a community engagement specialist (1.0 FTE), an advisory council coordinator (1.0 FTE), a marketing and communications specialist (1.0 FTE), and a human resources specialist (1.0 FTE).
- **Legal services.** The BHA requires 1,800 hours of legal services per year provided by the Department of Law at the blended rate of \$98.57. The Department of Law requires 1.0 FTE for this work.

Other CDHS costs. The CDHS will have costs for additional central services and other operating expenses to support the BHA, as described below.

- **CDHS central services staff support.** As the BHA will be housed in CDHS initially and will be supported with some central CDHS functionality, additional staff in the CDHS are needed to support the new BHA. The additional functions range from human resources support to contracting. A total of 9.0 new FTEs are included in the CDHS Office of Administrative Solutions for this purpose, including human resources specialists (2.0 FTE), a performance management analyst (1.0 FTE), an auditor (1.0 FTE), a project manager (1.0 FTE), a program administrator (1.0 FTE), a program manager (1.0 FTE), a budget analyst (1.0 FTE), and a marketing and communications specialist (1.0 FTE).
- **Other operating.** Other operating costs for the CDHS includes travel costs estimated at \$10,000 ongoing; as well as one-time contractors in FY 2022-23, including a stakeholder engagement contractor estimated at \$35,000 and a program alignment contractor estimated at \$60,000. In FY 2023-24, the fiscal note includes leased space for half of the staff at a rate of \$6,600 per FTE and indirect technology costs for all FTEs estimated at \$161,445.

**Table 3
 CDHS Expenditures Under HB 22-1278**

Cost Components	FY 2022-23	FY 2023-24
Behavioral Health Administration – CDHS		
Personal Services	\$2,134,381	\$2,996,555
Operating Expenses	\$31,050	\$39,150
Capital Outlay Costs	\$179,800	\$6,200
Legal Services (1.0 FTE in Dept. of Law)	\$177,426	\$177,426
Employee Insurance and Supplemental Retirement	\$405,991	\$559,545
FTE – Personal Services	21.4 FTE	29.0 FTE
BHA Subtotal	\$2,928,648	\$3,778,876
Central Services – CDHS		
Personal Services	\$479,380	\$911,689
Operating Expenses	\$7,290	\$12,150
Capital Outlay Costs	\$55,800	-
Employee Insurance and Supplemental Retirement	\$88,121	\$172,007
FTE – Personal Services	4.5 FTE	9.0 FTE
DHS Central Subtotal	\$630,591	\$1,095,846
Other Operating – CDHS		
Travel and Contractors	\$150,000	\$10,000
Leased Space	-	\$92,400
Information Technology Indirect	-	\$161,910
DHS Other Operating Subtotal	\$150,000	\$264,310
Total	\$3,709,240	\$5,139,032
Total FTE	25.9 FTE	38.0 FTE

Other Agencies

In addition to the CDHS, the bill impacts costs in the CDPHE, HCPF, DOI, and Legislative Department beginning in FY 2022-23, as shown in Table 4 and detailed below. Costs in FY 2024-25 will depend on implementation decisions by the BHA and will be addressed through the annual budget process.

**Table 4
Other Department Expenditures Under HB 22-1278**

Cost Components	FY 2022-23	FY 2023-24
Department of Public Health and Environment (GF)		
Personal Services	(24,187)	\$68,035
Operating Expenses	-	\$1,350
Centrally Appropriated Costs ¹	(9,133)	\$30,344
FTE – Personal Services	(0.2 FTE)	1.0 FTE
CDPHE Subtotal	(\$33,320)	\$99,729
Department of Health Care Policy and Financing (GF/FF Split)		
Personal Services	\$455,048	\$496,416
Operating Expenses	\$6,750	\$6,750
Capital Outlay Costs	\$31,000	\$0
Centrally Appropriated Costs ¹	\$85,933	\$94,653
FTE – Personal Services	4.5 FTE	5.0 FTE
HCPF Subtotal	\$578,731	\$597,819
Division of Insurance (DOI Cash Fund)		
Personal Services	\$127,666	\$127,666
Operating Expenses	\$2,700	\$2,700
Capital Outlay Costs	\$12,400	-
Centrally Appropriated Costs ¹	\$31,484	\$31,484
FTE – Personal Services	2.0 FTE	2.0 FTE
DOI Subtotal	\$174,250	\$161,850
Legislative Department (GF)		
Personal Services	(\$37,156)	-
Operating Expenses	(\$675)	-
Member Per Diems and Reimbursements	(\$14,117)	-
Centrally Appropriated Costs ¹	(\$8,940)	-
FTE – Personal Services	(0.5 FTE)	-
Leg. Dept Subtotal	(\$60,888)	-
Total	\$658,773	\$859,398
Total FTE	5.8 FTE	8.0 FTE

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

Department of Public Health and Environment. In FY 2022-23, the bill moves Phase 2 rulemaking authority from the CDPHE to the BHA for the substance use disorder portion of the original licensing of behavioral health entities, created by House Bill 19-1237; therefore, a one-time reduction of 0.4 FTE for a policy advisor is included. This reduction is offset by an additional 0.2 FTE for a contract administrator and human resource specialist beginning in FY 2022-23. Beginning FY 2023-24, the CDPHE requires 0.8 FTE health professional for facility surveying and complaint handling.

Health Care Policy and Financing. HCPF requires a total of 5.0 FTE beginning in FY 2022-23 for behavioral health specialists (2.0 FTE), including one to coordinate adult care and the other to coordinate youth care; a regulatory specialist (1.0 FTE) to ensure that all changes specified in the bill and resulting from BHA directives are in alignment with existing state and federal law pertaining to HCPF; a rate analyst (1.0 FTE) to assist the BHA in establishing a Behavioral Health Safety Net System and to assist the BHA and Managed Care Entities in collecting information to form their recommendations for alternative payment models; and a data and research analyst (1.0 FTE) to assist the BHA in the data collection and reporting requirements.

Division of Insurance. The DOI requires 2.0 FTE beginning in FY 2022-23, including one policy advisor who will be responsible for data and policy analysis to support the evaluation and, potentially, coordination with regulated commercial payers, and a rate and financial analyst to coordinate complaints and grievances from the BHA related to providers regulated by the DOI.

Division of Fire Prevention and Control—Department of Public Safety. The Division of Fire Prevention and Control (DFPC) inspects certain health facilities. To the extent that the bill results in additional facilities requiring inspections by the DFPC, workload and costs will increase. However, since all facilities regulated by the CDHS and CDPHE are already subject to inspection by the DFPC pursuant to House Bill 19-1237, any increase is assumed to be minimal and any additional appropriations necessary will be sought through the annual budget process.

Legislative Department. The bill suspends the Opioid and Other Substance Use Disorders Study Committee for the 2022 interim, reducing Legislative Department expenditures to support the committee.

Centrally appropriated costs. Pursuant to fiscal note and Joint Budget Committee policy, centrally appropriated costs for bills involving more than 20 FTE are appropriated in the bill, rather than through the annual budget process. These costs, which include employee insurance and supplemental employee retirement payments for the CDHS, are detailed in Table 3. For the remaining departments, centrally appropriated costs associated with the bill will be addressed through the annual budget process, as shown in Table 4.

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 beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by amounts shown in Table 1, which decreases the amount of General Fund available for other purposes.

Local Government

To the extent that counties and city and counties levy a tax to purchase behavioral health services, revenue and expenditures will increase in those local governments.

Effective Date

The bill was signed into law by the Governor on May 25, 2022, and took effect July 1, 2022, except that:

- Section 212 takes effect July 1, 2023, and Sections 215 through 240 take effect July 1, 2024;
- Sections 241 through 251 take effect August 10, 2022 (the effective date of House Bill 22-1256, assuming no referendum petition is filed);
- Sections 16 and 17 do not take effect due to Senate Bill 22-021 becoming law.

State Appropriations

In total, the bill includes \$4.3 million in appropriations in FY 2022-23 to multiple agencies, as described below.

Department of Human Services. The bill includes the following General Fund appropriations totaling \$3,709,240 to the CDHS:

- \$2,928,648 and 21.4 FTE for staffing, operating, and related expenses in the Behavioral Health Administration, of which \$177,426 is reappropriated to the Department of Law for legal services with an additional 1.0 FTE;
- \$630,591 and 4.5 FTE for the Office of Administrative Solutions for central services and support; and
- \$150,000 for other operating expenses, including contractors and travel expenses.

Department of Public Health and Environment. On net, the bill includes in reductions in General Fund appropriations to the CDPHE of \$33,320, and a reduction of 0.2 FTE.

Health Care Policy and Financing. The bill includes an appropriation of \$492,798 to HCPF, split evenly between General Fund and federal funds, and 4.5 FTE.

Department of Regulatory Agencies. The bill includes an appropriation of \$142,766 to DORA from the Division of Insurance Cash Fund, and 2.0 FTE.

Legislative Department. The bill includes a reduction in appropriations to the Legislative Department of \$51,948 from the General Fund, which includes \$20,736 and 0.3 FTE from Legislative Council Staff, \$17,095 and 0.2 FTE from the Office of Legislative Legal Services, and \$14,117 from the General Assembly.

Transfer of funding from CDHS to CDPHE. Lastly, the bill requires an increase in appropriations to the CDPHE of \$8,867,967 and 11.2 FTE for prevention services, and a corresponding decrease to the CDHS. This appropriation includes \$48,111 General Fund, \$590,497 from the Marijuana Tax Cash Fund, and \$8,181,248 in reappropriated funds from the CDHS.

State and Local Government Contacts

Governor
Human Services
Public Health and Environment
Law

Health Care Policy and Financing
Information Technology
Public Safety
Regulatory Agencies