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Fiscal Note

Drafting Number:	LLS 22-0371	Date:	April 8, 2022
Prime Sponsors:	Rep. Sirotta Sen. Winter; Fields	Bill Status:	House HHS
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Bill Topic: CLEAN WATER IN SCHOOLS & CHILD CARE CENTERS

Summary of Fiscal Impact:	<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> School Districts
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill requires schools and child care facilities to install filters on drinking water sources, provide at least one bottle-filling station for every 100 children, inventory water sources, develop maintenance plans and annually test drinking water sources. Beginning in FY 2022-23, the bill increases state and school district expenditures.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$34.4 million 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 22-1358**

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		-	-
Expenditures	Cash Fund	\$33,100,000	-
	General Fund	\$1,306,670	\$1,044,512
	Centrally Appropriated	\$157,084	\$201,049
	Total Expenditures	\$34,563,754	\$1,245,561
	Total FTE	9.6 FTE	10.5 FTE
Transfers¹	General Fund	(\$33,100,000)	-
	Cash Fund	\$33,100,000	-
	Net Transfer	\$0	-
Other Budget Impacts	General Fund Reserve	\$5,161,001	\$196,001

¹ This fiscal note assumes that program funding will be transferred to the Child Care Clean Drinking Water Fund via an appropriation from the General Fund.

Summary of Legislation

Water filter installation and maintenance. The bill requires all schools, child care centers, and family child care homes (facilities) to install NSF/ANSI-compliant filters on all drinking water sources, and have at least one filtered bottle-filling station for every one hundred students or children within 180 days following enactment. Facilities are required to create an inventory of all water sources, distinguishing drinking water sources from other sources, and post visible signs on sources identified as nondrinking water sources. Facilities must also develop and implement a maintenance plan for all filters and maintain records of all filter replacement activities. The CDPHE will develop and maintain a public list of approved filtration systems.

Testing. Facilities must test at least annually for the presence of lead in drinking water sources using a state-certified laboratory. Results must be made publically available and submitted to the Water Quality Control Commission (WQCC), who will make the results publically available within 30 days. If drinking water sources are found to contain lead in an amount of one part per billion or more, the facility must determine and implement a remediation plan, according to the process outlined in the bill.

Training and enforcement. The CDPHE will provide training in relevant languages to facilities regarding water filter maintenance, testing, and reporting processes. The CDPHE is not required to perform inspections, and the WQCC is authorized but not required to issue administrative orders and assess penalties. The WQCC must submit a report to relevant legislative committees by December 1 annually beginning in 2023 that summarizes testing results and identifies noncompliant facilities.

Cash fund. The bill creates the School and Child Care Clean Drinking Water Fund for CDPHE to use to help schools, child care centers, and family child care homes comply with the requirements and to reimburse as needed for costs. The CDPHE is authorized to accept money from any source for deposit into the fund.

Assumptions

This fiscal note assumes that the newly-created cash fund will provide reimbursement for 100 percent of facility costs in FY 2022-23 to install filters and bottle-filling stations, purchase replacement cartridges, and conduct their first year of annual testing. It is assumed small facilities (less than 100 students or children) are not required to install a bottle-filling station, but may choose to do so. It is also assumed that small schools will install five point of use (POU) filters per school (\$150 per POU filter), large schools will install ten POU filters per school, small child care facilities will install two POU filters, and large child care facilities will install three POU filters per facility. This is in addition to the installation of bottle-filling stations (\$2,200 per station), which is assumed to be one station per 100 students or children for large facilities only. Maintenance costs are assumed to be \$200 per bottle-filling station and \$120 per POU filter. Annual testing costs are assumed to be \$40 per test.

Based on these assumptions and estimated costs, first year costs including installation, maintenance, and testing amount to around \$33.1 million. Actual reimbursement costs may vary based on the number of facilities that already meet the minimum filter requirements and facilities that choose to install more than the number of filters estimated in this fiscal note. Ongoing maintenance and testing costs amount to around \$7.2 million annually, which will be paid for by the facilities unless further funding is provided to the cash fund. These costs are provided in Table 2 below.

Table 2
FY 2022-23 Estimated Costs for Schools and Child Care Facilities

Facilities	Bottle Filling Stations	POU Filters	One-Time Installation	Annual Maintenance	Annual Testing
Large Schools (1,728)	8,773	19,290	\$22,190,000	\$4,070,000	\$1,120,000
Small Schools (201)	-	1,005	\$150,000	\$120,000	\$4,000
Large CCC ¹ (921)	921	2,764	\$2,440,000	\$520,000	\$150,000
Small CCC (3,685)	-	7,370	\$1,110,000	\$880,000	\$290,000
Total (6,535)	9,694	30,428	\$25,900,000	\$5,600,000	\$1,600,000

Notes: The number of facilities are based on data from the Department of Education and Department of Human Services. The number of bottle filling stations was calculated by dividing the pupil count or child care provider capacity by 100 for large facilities. The number of POU filters was calculated using assumptions outlined above.

¹ CCC = licensed child care providers

State Transfers

The fiscal note assumes that money will be transferred from the General Fund to the Child Care Clean Drinking Water Fund for the CDPHE to reimburse facilities with costs incurred in FY 2022-23, including installing and maintaining filters and conducting annual testing. These costs are estimated to be \$33.1 million in FY 2022-23 based on the assumptions and calculations discussed above.

State Expenditures

The bill increases state expenditures by \$34.6 million in FY 2022-23 and \$1.4 million in FY 2023-24 in the CDPHE. This fiscal note assumes that reimbursements will be made from the newly-created cash fund, and administrative costs will be funded with General Fund. These costs are outlined in Table 3 and detailed below.

**Table 3
 State Expenditures Under HB22-1358**

	FY 2022-23	FY 2023-24
Department of Public Health and Environment		
Personal Services	\$632,477	\$843,303
Operating Expenses	\$11,745	\$14,175
Capital Outlay Costs	\$68,200	-
Computer Programming	\$505,498	\$98,284
Software Licensing and Storage	\$71,250	\$71,250
Communication and Translation	\$17,500	\$17,500
Reimbursement Funds	\$33,100,000	-
Centrally Appropriated Costs ¹	\$157,084	\$394,982
Total	\$34,563,754	\$1,439,494
Total FTE	8.0 FTE	10.5 FTE

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

Department of Public Health and Environment. The CDPHE will incur ongoing staff and information technology expenditures beginning in FY 2022-23 to develop a web portal, provide training and support to facilities in meeting the compliance requirements, process reimbursements, and manage the reporting of test results.

- *Personal services.* Beginning in FY 2022-23, the CDPHE will require 2.5 FTE to process reimbursements, estimated at less than 1 hour for the 6,535 entities submitting reimbursement requests. An additional 8.0 FTE will provide virtual training and support to facilities in accessing and using the web portal, developing maintenance plans, conducting annual testing, uploading test results, and providing guidance on any needed remediation efforts. This level of staffing is adequate to provide up to 3 hours of support per facility annually, as well as data and program management support. Staff will also review and post test results and compile annual reports for the relevant legislative committees. Staff costs include capital and operating expenses, reflect the General Fund pay date shift in FY 2022-23, and assume a September 1 start date. Staffing costs have not been estimated beyond FY 2023-24, but are assumed to decrease.
- *Communication and translation materials.* The CDPHE will develop and translate communication materials to provide outreach and support to facilities regarding the web portal, training sessions, and other training materials to support compliance. These costs are estimated at \$17,500 annually.
- *Web portal.* The CDPHE will develop a web portal for facilities to submit reimbursement and annual testing results. The CDPHE require 4,200 hours of computer programming provided by the Office of Information Technology at \$505,498 in FY 2022-23, with ongoing maintenance costs of \$98,284. CDPHE will incur \$71,250 in costs annually for software licensing and cloud storage. These estimates are based on experience with a similar drinking water portal currently used to regulate public water systems and permittees.

Reimbursements. As discussed in the Assumptions section above, the CDPHE will distribute reimbursement to facilities for the costs of installation, maintenance, and testing in the first year.

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 3.

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 the amounts shown in Table 1, which will decrease the amount of General Fund available for other purposes.

School Districts

School districts will incur costs to comply with the filter installation, maintenance, remediation, and testing requirements of the bill. First year costs are assumed to be reimbursed by CDPHE. Beginning in FY 2023-24, maintenance and testing costs are estimated to be \$7.2 million annually and assumed to be covered by school districts. To the extent that additional funds are deposited in the cash fund, additional resources may be available for reimbursement.

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 2022-23, the bill requires the following appropriations:

- \$33.1 million from the General Fund to the Child Care Clean Drinking Water Fund with a corresponding appropriation from the Child Care Clean Drinking Water Fund to the CDPHE; and
- \$1,306,670 from the General Fund to the CDPHE, and 8.0 FTE; of which, \$505,498 is reappropriated to the Office of Information Technology.

Departmental Difference

The CDPHE estimates that the bill will increase its expenditures by \$47.8 million and 78.2 FTE in FY 2022-23 and \$14.3 million and 56.1 FTE in FY 2023-24. These estimates are based on a number of assumptions that differ from the assumptions used in this fiscal note. First, CDPHE assumes that each

school and child care facility will require 20-25 hours of assistance in FY 2022-23 to process reimbursements, support testing and reporting, install and maintain filters, and remediate drinking water sources that fail testing. Second, based on past experience with lead testing and drinking water systems, the CDPHE estimates a higher level of non-compliance, requiring additional staff resources to provide ongoing training and compliance assistance to facilities. Finally, the CDPHE estimates higher reimbursement costs based on a higher estimated number of facilities, and testing twice annually.

This fiscal note assumes that the CDPHE can effectively provide training and compliance assistance through virtual meetings and online resources that will require, on average, less than 3 hours per facility. According to a water testing program administered in Washington, D.C., under 5 percent of nearly 5,000 annual tests report results of lead greater than or equal to one part per billion, requiring the school to take remediation action. This fiscal note also assumes that data management, processing, and reporting can be managed efficiently through a database portal. Finally, the fiscal note estimates fewer schools and licensed child care facilities based on data from the Department of Education and the Department of Human Services, and testing once per year as required by the bill.

State and Local Government Contacts

Education
Labor
School Districts

Information Technology
Public Health and Environment