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Revised Fiscal Note

(replaces fiscal note dated May 4, 2022)

Drafting Number: LLS 22-0371 **Date:** May 10, 2022
Prime Sponsors: Rep. Sirota **Bill Status:** Consideration of Senate Amendments
 Sen. Winter; Fields **Fiscal Analyst:** Christina Van Winkle | 303-866-6289
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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 eligible schools and child care facilities to test drinking water sources and remediate drinking water sources with lead levels at or above 5 parts per billion. The Department of Public Health and Environment must provide training and technical assistance to ensure compliance, and reimburse facilities for their costs of compliance. Beginning in FY 2022-23, the bill increases state and school district expenditures.

Appropriation Summary: For FY 2022-23, the bill requires and includes an appropriation of \$23.6 million to the Department of Public Health and Environment.

Fiscal Note Status: This revised fiscal note reflects the rerevised bill.

**Table 1
State Fiscal Impacts Under HB 22-1358**

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		-	-
Expenditures	Cash Fund	\$21,000,000	-
	General Fund	\$2,648,019	\$1,099,600
	Centrally Appropriated	\$164,755	\$210,943
	Total Expenditures	\$23,812,774	\$1,310,543
	Total FTE	8.4 FTE	11.0 FTE
Transfers¹	General Fund	(\$21,000,000)	-
	Cash Fund	\$21,000,000	-
	Net Transfer	\$0	-
Other Budget Impacts	General Fund Reserve	\$397,203	\$164,940

¹ Program funding will be transferred to the Child Care Clean Drinking Water Fund via an appropriation from the General Fund.

Summary of Legislation

The bill requires eligible schools, child care centers, and family child care homes to test and remediate for the presence of lead in drinking water sources. The Colorado Department of Public Health and Environment (CDPHE) will provide training, technical assistance, and funds to help schools and child care facilities comply.

Testing. The bill requires that all eligible schools, child care centers, and family child care homes (facilities) test for the presence of lead in drinking water sources using a state-certified laboratory by May 1, 2023, and according to an established testing schedule thereafter. Eligible schools include schools that serve any grades between preschool through eighth grade, except that eligible schools that serve grades six, seven, and eight (middle schools) must test drinking water sources by November 30, 2024. Schools and facilities will make their results publically available and submit to the Water Quality Control Commission (WQCC), which will make the results publically available on its website within 30 days. If tests show that drinking water sources contain lead in an amount of five parts per billion or more, the facility must determine and implement a remediation plan, according to the process outlined in the bill. The CDPHE may conduct further remediation as necessary to address drinking water sources. Certain exemptions as outlined in the bill apply.

Training and enforcement. The CDPHE will provide training in relevant languages to facilities regarding water filter maintenance, flushing protocols, testing, and reporting processes. The CDPHE will also provide technical assistance as needed to facilities in rural areas to ensure compliance. The CDPHE is not required to perform inspections, and the WQCC is authorized, but not required to issue administrative orders and assess penalties.

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. The fund may be used to reimburse middle schools for compliance costs only after March 15, 2024.

Reporting. On or before December 1, 2023, and annually thereafter, the WQCC will submit a report to relevant legislative committees that summarizes test results and identifies noncompliance. By February 28, 2024, the CDPHE will report to relevant legislative committees concerning the remaining fund balance and the estimated costs of implementation to expand compliance to schools that serve grades nine through twelve that are not initially eligible.

Assumptions

Eligible schools serving grades preschool through fifth. This fiscal note assumes that the newly created cash fund will provide reimbursement for 100 percent of facility costs in FY 2022-23 to conduct their first year of annual testing and remediate drinking water sources with lead levels at or above 5 parts per billion. It assumes that 20 percent of tests will require remediation. It also assumes that schools will test 50 drinking water sources per school, large child care facilities will test 25 drinking water sources, and small child care facilities will test 7 drinking water sources, at \$25 per test. The cost of remediation is assumed to be \$450 per drinking water source.

Based on these assumptions and estimated costs, first year costs including testing, remediation, and confirmation testing amount to around \$17.5 million. Actual reimbursement costs may vary based on the number of drinking water sources tested, the number of facilities that opt out of compliance, and the number of sources that require remediation. These first year costs are provided in Table 2 below.

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

Entity	Number of Facilities	Cost of Testing	Cost of Remediation	Cost of Confirmation Testing
Schools	1,116	\$1,395,000	\$5,022,000	\$279,000
Large CCC ¹	3,179	\$1,986,875	\$7,152,750	\$397,375
Small CCC	1,522	\$266,350	\$958,860	\$53,270
Total	5,817	\$3,648,225	\$13,133,610	\$729,645

Notes: The number of facilities are based on data from the Department of Education and Department of Human Services. Schools include only those schools that serve preschool through fifth grade.

¹ CCC = licensed child care providers

Eligible middle schools. Compliance costs for middle schools are estimated to be around \$3 million in FY 2023-24. This estimate includes 289 middle schools in Colorado with an assumption that each school will test up to 100 drinking water sources, and that 20 percent will require remediation and confirmation testing.

State Transfers

The bill appropriates \$21.0 million 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 which is shown as a transfer in Table 1.

State Expenditures

The bill increases state expenditures by \$23.8 million in FY 2022-23 and \$1.3 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	\$673,286	\$897,716
Operating Expenses	\$12,285	\$14,850
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 (Cash Fund)	\$21,000,000	-
Technical Assistance Contracting	\$1,300,000	-
Centrally Appropriated Costs ¹	\$164,755	\$210,943
Total	\$23,812,774	\$1,310,543
Total FTE	8.4 FTE	11.0 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 5,817 facilities submitting reimbursement requests. An additional 8.5 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 testing and remediation in the first year.
- *Technical Assistance.* The CDPHE will contract with a third party to provide technical assistance to eligible schools and child care facilities in rural areas at an estimated cost of \$1.3 million.

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 testing, remediation, and reporting requirements of the bill. First year costs are assumed to be reimbursed by CDPHE, with middle schools eligible to be reimbursed for testing and remediation beginning on May 31, 2024. Beginning in FY 2023-24, school districts will incur costs to maintain drinking water sources, including further testing and remediation actions as well as regular filter replacement. 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 and includes the following appropriations:

- \$21.0 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
- \$2,648,019 from the General Fund to the CDPHE, and 8.4 FTE; of which, \$505,498 is reappropriated to the Office of Information Technology.

State and Local Government Contacts

Education
Labor
School Districts

Information Technology
Public Health and Environment