



## Legislative Council Staff

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# Final Fiscal Note

**Drafting Number:** LLS 23-0749  
**Prime Sponsors:** Rep. DeGraaf

**Date:** June 26, 2023  
**Bill Status:** Postponed Indefinitely  
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**Bill Topic:** **REVOKE CARBON DIOXIDE STATUS AS A POLLUTANT**

**Summary of Fiscal Impact:**

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill would have prohibited the state and local governments from regulating carbon dioxide as a pollutant. It would have increased state and local expenditures beginning in FY 2023-24, and may have reduced these expenditures in future fiscal years.

**Appropriation Summary:**

For FY 2023-24, the bill would have required appropriations of \$299,052 to multiple state agencies. See State Appropriations section for details.

**Fiscal Note Status:**

The fiscal note reflects the introduced bill. This bill was postponed indefinitely by the House Energy and Environment Committee on February 23, 2023; therefore, the impacts identified in this analysis do not take effect.

**Table 1**  
**State Fiscal Impacts Under HB 23-1163**

		Budget Year FY 2023-24	Out Year FY 2024-25
<b>Revenue</b>		-	-
<b>Expenditures</b>	General Fund	\$255,255	\$281,003
	Cash Funds	\$43,797	-
	Centrally Appropriated	\$31,980	\$31,026
	<b>Total Expenditures</b>	<b>\$331,032</b>	<b>\$312,029</b>
	<b>Total FTE</b>	<b>2.3 FTE</b>	<b>2.2 FTE</b>
<b>Transfers</b>		-	-
<b>Other Budget Impacts</b>	General Fund Reserve	\$38,288	\$42,150

## Summary of Legislation

The bill prohibits the state and local governments from classifying carbon dioxide as a pollutant or from enforcing any existing regulation of carbon dioxide as a pollutant.

## Background and Assumptions

Carbon dioxide is regulated by a variety of state and federal government programs. If this bill is adopted, some of these regulations will need to be revised in initial fiscal years, generating the costs described in this fiscal note. It is expected that these revisions will result in cost savings in the long-term by avoiding regulatory activities..

**Greenhouse gas emissions reduction goals.** Under current law, the state must reduce its greenhouse emissions relative to a 2005 baseline by 26 percent by 2025, 50 percent by 2030, and 90 percent by 2050. (Senate Bill 23-016 updates these targets, and is currently under consideration.) The fiscal note assumes that the emissions reduction targets remain in place under this bill, and that carbon dioxide will be removed from both the baseline and the upcoming targets. According to the 2021 Colorado Greenhouse Gas Inventory Update, carbon dioxide constitutes 69 percent of the state’s baseline emissions.

**Federal regulations.** Some federal programs regulate carbon dioxide as a pollutant, and the fiscal note assumes that the state will still regulate carbon dioxide when required by federal law.

**Long-term cost savings.** The fiscal note assumes that the bill will require some regulatory activities to cease, resulting in cost savings. The expenditures described below are required to review and update state rules and regulatory programs for the exclusion of carbon dioxide, and any subsequent reduction in state expenditures will occur in later years.

## State Expenditures

The bill increases expenditures in multiple state agencies by about \$330,000 in FY 2023-24 and \$310,000 in FY 2024-25, paid from the General Fund and the Fixed Utility Fund, as shown in Table 2.

**Table 2**  
**Expenditures Under HB 23-1163**

	FY 2023-24	FY 2024-25
<b>Colorado Energy Office</b>		
Personal Services	\$116,050	\$154,733
Operating Expenses	\$1,620	\$2,025
Capital Outlay Costs	\$13,340	-
Centrally Appropriated Costs <sup>1</sup>	\$24,094	\$31,026
FTE – Personal Services	1.2 FTE	1.5 FTE
<b>CEO Subtotal</b>	<b>\$155,104</b>	<b>\$187,784</b>

**Table 2**  
**Expenditures Under HB 23-1163 (Cont.)**

	FY 2023-24	FY 2024-25
<b>Department of Public Health and Environment</b>		
Legal Services	\$124,245	\$124,245
FTE – Legal Services	0.7 FTE	0.7 FTE
<b>CDPHE Subtotal</b>	<b>\$124,245</b>	<b>\$124,245</b>
<b>Department of Regulatory Agencies</b>		
Personal Services	\$37,127	-
Capital Outlay Costs	\$6,670	-
Centrally Appropriated Costs <sup>1</sup>	\$7,537	-
FTE – Personal Services	0.4 FTE	-
<b>DORA Subtotal</b>	<b>\$51,683</b>	<b>-</b>
<b>Total</b>	<b>\$331,032</b>	<b>\$312,029</b>
<b>Total FTE</b>	<b>2.3 FTE</b>	<b>2.2 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Colorado Energy Office.** The office must update its policies, strategies, and support the rulemaking activities conducted by the Public Utilities Commission and the Air Quality Control Commission. Rulemaking is expected to be extensive, including Clean Energy Plans, Clean Heat Plans, greenhouse gas emissions reductions goals, and the social cost of carbon, and CEO requires 1.5 FTE in FY 2023-24 and FY 2024-25. Standard operating and capital outlay costs are included, and costs are prorated for the General Fund pay date shift and the bill's effective date.

**Department of Public Health and Environment.** The department must evaluate existing rules and federal agreements and conduct rulemaking as necessary. The fiscal note assumes that where federal law requires regulation of carbon dioxide as a pollutant, no policy changes will be required. These requirements are estimated at 1,175 hours of legal services in FY 2023-24 and FY 2024-25. Legal services are provided by the Department of Law at a rate of \$105.74 per hour.

**Department of Regulatory Agencies.** The Public Utilities Commission establishes rules and reviews utilities' Clean Energy Plans and Clean Heat Plans. The bill will require updates to rules for these plans and for utilities to resubmit their plans. Updating PUC rules requires 0.5 FTE in FY 2023-24 only. The fiscal note assumes that existing staff in DORA that review Clean Energy Plans and Clean Heat Plans can accommodate the new reviews within existing appropriations. Costs are paid from the Fixed Utility Fund, and account for standard operating and capital outlay expenses, and are prorated for the bill's effective date.

**Additional legal services.** Other state agencies, such as the Department of Transportation or the Department of Natural Resources, may require additional legal services from the Department of Law to update rules or provide general counsel. Should resources beyond what can be accommodated within existing appropriations be required, they will be addressed through the annual budget process.

**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.

**Long-term impacts.** It should be noted that over the long term, the bill decreases state expenditures by mitigating workload associated with regulating carbon dioxide.

## 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. 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, decreasing the amount of General Fund available for other purposes.

## Local Government

To the extent that any local government regulates carbon dioxide as a pollutant, workload will increase workload to update regulations. Workload may increase for any municipal utility that must update its Clean Power Plan or Clean Heat Plan.

## 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 2023-24, the bill requires the following appropriations:

- \$131,010 from the General Fund to the Colorado Energy Office, and 1.2 FTE;
- \$124,245 from the General Fund to the Department of Public Health and Environment, which is reappropriated to the Department of Law, with 0.7 FTE; and
- \$43,797 from the Fixed Utility Fund to the Public Utilities Commission in the Department of Regulatory Agencies, and 0.4 FTE.

## State and Local Government Contacts

Colorado Energy Office	Information Technology	Law
Local Affairs	Natural Resources	Public Health and Environment
Regulatory Agencies	Transportation	