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Final Fiscal Note

Drafting Number: LLS 23-0396 Date: June 26, 2023
Prime Sponsors: Rep. Soper; Mauro Bill Status: Deemed Lost
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Bill Topic: WATER QUALITY DATA STANDARDS

- Summary of Fiscal Impact: State Revenue, State Expenditure, State Transfer, TABOR Refund, Local Government, Statutory Public Entity

The bill would have required the use of quality-assured data to establish the total maximum daily load for pollutants discharged into state waters. It would have increased state expenditures beginning in FY 2023-24.

Appropriation Summary: For FY 2023-24, the bill would have required an appropriation of \$555,220 to the Department of Public Health and Environment.

Fiscal Note Status: The revised fiscal note reflects the introduced bill, as amended by House Energy and Environment Committee. The bill was deemed lost in the House Appropriations Committee on May 9, 2023; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under HB 23-1221

Table with 4 columns: Category, Budget Year FY 2023-24, and Out Year FY 2024-25. Rows include Revenue, Expenditures (General Fund, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (General Fund Reserve).

Summary of Legislation

The bill requires the Department of Public Health and Environment (CDPHE) to issue written guidance specific to total maximum daily load development for pollutants discharged into state waters, with input from stakeholders, by January 1, 2025. The bill specifies that total maximum daily load calculations include data from the last five years and relevant historical data.

State Expenditures

The bill increases state expenditures in CDPHE by about \$600,000 in FY 2023-24 and by about \$826,000 in FY 2024-25, paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under HB 23-1221

	FY 2023-24	FY 2024-25
Department of Public Health and Environment		
Personal Services	\$200,612	\$345,453
Operating Expenses	\$4,185	\$6,210
Capital Outlay Costs	\$26,680	\$6,670
Water Sample Tests	\$281,333	\$337,600
Travel	\$21,262	\$25,975
Legal Services	\$21,148	\$21,148
Centrally Appropriated Costs ¹	\$48,533	\$83,030
FTE – Personal Services	2.7 FTE	4.6 FTE
FTE – Legal Services	0.1 FTE	0.1 FTE
Total Cost	\$603,753	\$826,085
Total FTE	2.8 FTE	4.7 FTE

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

Department of Public Health and Environment. The bill increases expenditures in CDPHE to expand water quality testing and recalculate maximum total daily loads. Costs for staff, sampling, and travel are prorated in FY 2023-24 for the bill's effective date.

- **Staff—total maximum daily load.** The existing Clean Water Program relies on approximately 2.0 FTE to establish total maximum daily load. It includes some sampling, but relies heavily on modeling and literature review. Increased data quality standards drive additional workload for program staff to collect samples, update total maximum daily load calculations, and perform related analysis. Collecting additional samples from water sources around the state requires an estimated 1.5 FTE beginning in FY 2023-24. Revising total maximum daily load calculations requires an additional 0.5 FTE beginning in FY 2024-25.

- **Staff—written guidance.** CDPHE requires 2.0 FTE in FY 2023-24, increasing to 2.5 FTE in FY 2024-25, to implement the stakeholder process and issue the written guidance.
- **Sampling.** In order to calculate total maximum daily loads using increased recent data, CDPHE must collect samples more frequently in order to adhere to federal guidance. CDPHE staff will collect 844 additional water samples annually and send them to a state lab for testing at \$400 per test.
- **Travel.** CDPHE staff will incur travel costs, including mileage, hotel, and per diem expenses, to visit water sources for field sample collection.
- **Legal services.** The department requires 200 hours of legal services annually to develop legally defensible standards, support federal review, and represent the department in any judicial review process. Legal services are provided by the Department of Law at a rate of \$105.74 per hour.

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.

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.

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 a General Fund appropriation of \$555,220 to the Department of Public Health and Environment, and 2.7 FTE. Of this amount, \$21,148 is reappropriated to the Department of Law, with 0.1 FTE.

State and Local Government Contacts

Information Technology

Law

Public Health and Environment