

  
*Colorado Legislative Council Staff Fiscal Note*  
**FINAL**  
**FISCAL NOTE**

**Drafting Number:** LLS 12-0316  
**Prime Sponsor(s):** Rep. Fischer  
 Sen. Nicholson

**Date:** July 17, 2012  
**Bill Status:** Postponed Indefinitely  
**Fiscal Analyst:** Alex Schatz (303-866-4375)

**TITLE:** CONCERNING THE AUTHORIZATION OF THE USE OF GRAYWATER.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
<b>State Revenue</b>		
<b>State Expenditures</b> General Fund *	\$ 94,162	
<b>FTE Position Change</b>	1.3 FTE	
<b>Effective Date:</b> The bill was postponed indefinitely by the House State, Veterans, and Military Affairs Committee on February 1, 2012.		
<b>Appropriation Summary for FY 2012-2013:</b> See State Appropriation section.		
<b>Local Government Impact:</b> Costs to pass rules if a county or municipality opts to allow graywater use. See Local Government Impact section.		

\* *The fiscal note assumes General Fund will be appropriated for the purposes of implementing the bill, rather than cash funds from the Water Quality Control Fund. See discussion in the State Appropriations section.*

**Summary of Legislation**

This bill authorizes the Water Quality Control Commission (WQCC) under the Colorado Department of Public Health and Environment (CDPHE) to promulgate a regulation with standards for the use of graywater. Graywater is defined by the bill as wastewater collected within a building from sources other than toilets and urinals, kitchen sinks, dishwashers, and nonlaundry utility sinks.

Following WQCC promulgation of a rule governing graywater use, counties and municipalities may adopt local legislation to allow graywater use. Where local graywater use is allowed, the governing body of the county or municipality must consult with the local health jurisdiction and must also provide for local enforcement of the WQCC regulation.

Graywater use is limited to applications that are within the uses allowed under the well permit or water right of the original source or sources of the water. The bill provides that graywater use conforming to uses allowed of source water is deemed not to cause injury to water rights.

**State Expenditures**

To develop and adopt rules and guidance concerning graywater use, CDPHE will incur one-time costs in FY 2012-13 of \$94,162 General Fund and 1.3 FTE.

The bill authorizes, but does not require, the WQCC to adopt a comprehensive regulation concerning graywater use as may be authorized by a county or municipality. A fiscal impact on state expenditures is conditioned upon CDPHE and the WQCC undertaking a rulemaking process to adopt such a regulation. The fiscal note assumes that the intent of the bill is to have state authorities the engage in this activity, which is not supported within the existing resources of CDPHE.

The process for the WQCC to develop and adopt a comprehensive graywater use regulation is assumed to commence and conclude within FY 2012-13. As soon as practicable after the effective date of the bill, CDPHE will assign an environmental protection specialist (EPS II) to: hold stakeholder meetings, follow up with stakeholders, compile related or model regulations, contact experts in the field, research technical information, address specific directives of the bill, bring issues to CDPHE staff and/or the WQCC for discussion and resolution, draft regulations, review and revise regulations through the hearing process, and develop implementation guidelines. The EPS II will work full-time on the project (0.8 FTE for the effective portion of FY 2012-13), while other CDPHE personnel will assist the project on a part-time basis, namely: a professional engineer (PE II) at 0.2 FTE, and an administrative assistant (AA II) at 0.3 FTE. The fiscal note assumes the stakeholder process will involve 5 overnight trips, incurring per diem, mileage, and hotel costs totaling \$3,320. In addition, the Department of Law will advise CDPHE and the WQCC throughout the regulatory process, averaging 12 hours per month for 10 months after the effective date; 120 hours at the legal service rate for state agencies of \$75.71 requires \$9,085 to be reappropriated to the Department of Law. Expenditures to implement the bill in CDPHE are summarized below in Table 1.

<b>Cost Components</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Personal Services	\$74,973	\$0
FTE	1.3	0
Operating Expenses and Capital Outlay	10,104	0
Legal Services	9,085	0
<b>TOTAL</b>	<b>\$94,162</b>	<b>\$0</b>

Should the regulatory process described in this paragraph extend beyond July 1, 2013, the fiscal note assumes that CDPHE will revert some of its FY 2012-13 spending authority and seek an appropriation for FY 2013-14 through the normal budget process.

The fiscal note assumes that workload of the water courts will be unaffected by the bill, based on the statutory determination that graywater use consistent with the bill does not impact water rights.

### **Expenditures Not Included**

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. The centrally appropriated costs subject to this policy are summarized in Table 2.

<b>Table 2. Expenditures Not Included Under HB 12-1003*</b>		
<b>Cost Components</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$8,520	\$0
Supplemental Employee Retirement Payments	3,393	0
Indirect Costs	20,245	0
<b>TOTAL</b>	<b>\$32,158</b>	<b>\$0</b>

*\*More information is available at: <http://colorado.gov/fiscalnotes>*

### **Local Government Impact**

Local government effects under the bill are conditional, based on voluntary adoption by a county or municipality of legislation enabling graywater use.

Most local governments meter usage of potable water by customers. As graywater collection and associated water reuse is employed at more locations within a service area, the local government service provider is likely to see a reduction in overall demand for potable water, with a concurrent reduction in revenue from metered water sales. The reduction of potable water sales will not be significant until graywater systems are marketed and installed widely in the state.

As graywater systems become more prevalent, some costs to implement a local program may be offset by lower costs to local government wastewater operators for treatment (e.g., chemicals, sludge disposal) and to build capacity for wastewater treatment facilities.

### **State Appropriations**

The Department of Public Health and Environment requires a General Fund appropriation of \$94,162 and 1.3 FTE for FY 2012-13. Of this amount, \$9,085 is reappropriated to the Department of Law.

The fiscal note assumes that General Fund will be appropriated for the one-time costs of CDPHE in FY 2012-13. Implementation of the bill fits within the allowable uses of the Water Quality Control Fund (WQCF), and the General Assembly may accordingly elect to appropriate moneys to CDPHE from the fund for the purposes of this bill. However, the WQCF is supported by fixed fee revenue and may not be able to sustain additional appropriations due to projected insolvency.

**Departments Contacted**

Agriculture  
Judicial  
Transportation

Local Affairs  
Law

Natural Resources  
Public Health and Environment