


Colorado Legislative Council Staff Fiscal Note
FINAL
FISCAL NOTE

Drafting Number: LLS 12-0472
Prime Sponsor(s): Rep. Looper
 Sen. King K.

Date: July 25, 2012
Bill Status: Postponed Indefinitely
Fiscal Analyst: Alex Schatz (303-866-4375)

TITLE: CONCERNING SCIENTIFIC REVIEW OF WATER QUALITY RULES REGULATING NUTRIENTS.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Expenditures	See State Expenditures section.	
FTE Position Change		
Effective Date: The bill was postponed indefinitely by the Senate Agriculture Committee on May 3, 2012.		
Appropriation Summary for FY 2012-2013: None required.		
Local Government Impact: None.		

Summary of Legislation

This bill prevents a water quality standard for nitrogen, phosphorus, or related parameters (nutrients) adopted by the Water Quality Control Commission (WQCC) from taking effect until the proposed standard is approved by the General Assembly in a bill.

By October 1, 2012, the legislative Water Resources Review Committee must hold a public meeting on nutrient standards proposed by the Water Quality Control Division (WQCD) in the Colorado Department of Public Health and Environment (CDPHE). The committee must deliver a report to the WQCC by November 1, 2012. This report, and the committee's meeting, must consider:

- compliance with state Executive Order D2011-005, which requires, to the extent authorized by law, that the promulgation of all regulations affecting local governments must be specifically mandated by state or federal law, and will occur only after consultation with local governments and with adequate funding to provide for the direct cost of regulatory compliance to local government;
- the extent of stakeholder participation reflected in the proposed nutrient standards;
- the results of the cost-benefit study on proposed Regulations 31 and 85 (see below);
- whether regulations are structured to avoid unnecessary burdens or costs to government agencies; and
- whether regulations address basin-specific conditions.

Background

The CDPHE, through the state statutory authority of the Colorado Water Quality Control Act and the efforts of the WQCD, is a delegated state agency for the implementation and enforcement of the federal Clean Water Act (CWA). As a component of CWA implementation, the federal Environmental Protection Agency (EPA) in 1998 adopted the National Strategy for the Development of Regional Nutrient Criteria (National Nutrient Strategy, or NNS). Based on the deleterious effects of increased nutrient loading on water bodies (e.g., loss of dissolved oxygen, algae blooms, disruption of stream ecosystems), the NNS calls for state and water body-based numeric standards for nutrients (nitrogen, phosphorus, and chlorophyll-a). The EPA has worked since the adoption of NNS to assist states in the adoption of numeric criteria, without establishing a specific deadline for implementation.

After substantial study, Colorado's WQCD proposed technology-based numeric control standards for nutrients. These standards are incorporated into amendments to WQCC Regulation 31 and a new Regulation 85. The WQCC and the Colorado Water Resources and Power Development Authority (CWRPDA) jointly commissioned a cost-benefit study of the proposed nutrient regulations, released in final form in January 2012. Subject to various assumptions, including appropriate technology and installation costs, the study quantified a statewide aggregate cost-benefit ratio of 0.8:1 for the proposed nutrient standards, based on finding \$1.9 billion in benefits and \$2.4 billion in costs. Given the technology-based approach of proposed regulations, publicly-owned treatment works (i.e., centralized wastewater treatment plants) are the regulated entity most significantly impacted by the proposed regulations.

The WQCC conducted a rulemaking hearing and voted to preliminarily approve nutrient numeric control standards on March 12-14, 2012. Final adoption of nutrient standards by the WQCC is scheduled for consideration at its meeting on May 14, 2012.

State Expenditures

The bill commits a portion of the 2012 workload of the Water Resources Review Committee, and the state agencies that support the committee (e.g., the Legislative Council Staff, CWRPDA, WQCC, CDPHE), to studying the proposed (or adopted) nutrient standards in Regulations 31 and 85.

The Water Resources Review Committee is authorized to meet up to eight times in 2012, and it is assumed that the chair will call at least one meeting between July 1, 2012, and October 1, 2012, for the purpose of, among other possible agenda items, conducting the public meeting directed by the bill. Interim meetings of the committee, including associated research, memoranda, and correspondence, are budgeted as part of the base budget of the Legislative Department. The fiscal note concludes that the bill directs the use of existing resources and does not require an additional appropriation.

Departments Contacted

Public Health and Environment
Governor's Office
Agriculture

Natural Resources
Treasury
Law

Personnel and Administration
Legislative Council Staff