



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number: LLS 23-0545 **Date:** April 10, 2023
Prime Sponsors: Rep. Velasco; Boesenecker **Bill Status:** House Trans. & Local Govt.
 Sen. Cutter **Fiscal Analyst:** Matt Bishop | 303-866-4796
 matt.bishop@coleg.gov

Bill Topic: **MOBILE HOME PARK WATER QUALITY**

Summary of Fiscal Impact:

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

The bill creates multiple programs to address water quality in mobile home parks. It increases state revenue and expenditures beginning in FY 2023-24.

Appropriation Summary: For FY 2023-24, the bill requires appropriations of \$4,003,586 to multiple state agencies.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 23-1257

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue	Cash Funds	up to \$135,000	up to \$135,000
	Total Revenue	up to \$135,000	up to \$135,000
Expenditures	Cash Funds	\$3,796,864	\$7,278,669
	Centrally Appropriated	\$206,722	\$382,054
	Total Expenditures	\$4,003,586	\$7,660,723
	Total FTE	12.1 FTE	21.1 FTE
Transfers¹	General Fund	(\$4,003,586)	(\$7,526,314)
	Cash Funds	\$4,003,586	\$7,526,314
	Net Transfer	\$0	\$0
Other Budget Impacts	TABOR Refund	up to \$135,000	up to \$135,000
	General Fund Reserve	\$600,538	\$1,128,947

¹ These transfers are made via appropriations from the General Fund to various cash funds.

Summary of Legislation

The bill addresses water quality in mobile home parks by creating a water quality testing program, developing an action plan, establishing a grant program, and providing related administrative functions, including funding and enforcement.

Water quality testing program. The bill creates a program to test water quality at mobile home parks in the Department of Public Health and Environment (CDPHE). The program must test water quality in all mobile home parks by July 1, 2028, with annual benchmarks. The department may develop a sampling and testing plan for specific parks. The bill specifies how the department must prioritize parks for testing and how test results are provided to park residents, owners, and other stakeholders.

If the testing identifies a water quality issue, CDPHE may conduct additional testing and must notify stakeholders and the Department of Local Affairs. The park owner must comply with any CDPHE orders and prepare a remediation plan. If CDPHE denies the plan, it must provide written recommendations to the park owner. The park owner must also provide an alternate source of drinking water or water filters, as necessary, during the remediation.

Action plan. CDPHE must develop an action plan by March 1, 2026, to address water quality in mobile home parks and help achieve environmental justice. The department must conduct outreach to parks and residents, incorporate the results of the testing program, and consider parks' water supply infrastructure.

Mobile Home Water Quality Grant Program. CDPHE must administer a grant program to help park owners and local governments address water quality issues and wastewater problems identified during the water quality testing. The department must develop policies for awarding grants in consultation with DOLA and following the guidelines in the bill, with the grants awarded annually beginning July 1, 2025. CDPHE's administrative expenses are capped at ten percent of annual appropriations for the grant program.

Enforcement. The bill establishes a variety of mechanisms for resolving violations. CDPHE may issue a cease-and-desist order for a violation of a remediation plan and may request that the Attorney General enforce the order if a park owner fails to comply. A park owner's failure to develop or implement a remediation plan constitutes a class 3 public nuisance and the park may be forfeited to the county. A resident threatened with eviction for filing a water quality complaint to requesting remediation may file a complaint with DOLA's Mobile Home Park Act Dispute Resolution and Enforcement Program or file a civil action in court. A park owner's failure to register their mobile home park or any violation of the bill constitutes a deceptive trade practice, which may be prosecuted by the Department of Law.

Cash fund. The bill creates the Mobile Home Park Water Quality Fund, which may be used by CDPHE for any of the bill's activities, subject to annual appropriation. The fund consists of money appropriated or transferred by the General Assembly and any penalties received from deceptive trade practice investigations under the bill.

State Revenue

The bill increases state cash fund revenue to DOLA from fees charged to mobile home parks by \$135,000 beginning in FY 2022-23.

Fee impact on mobile home park owners. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by DOLA based on cash fund balance, program costs, and the number of registrations subject to the fee. The fiscal note assumes that fees will increase in FY 2023-24 to cover costs starting in FY 2024-25. The fee is paid by mobile home park owners annually on a per-mobile-home basis, and may charge the mobile home owner or resident up to half of the fee. The existing fee is \$24 per mobile home. The table below identifies the fee impact of this bill.

Table 2
Fee Impact on Mobile Home Park Owners

Fiscal Year	Type of Fee	Estimated Fee Increase	Number Affected	Total Fee Impact
FY 2023-24	Registration	\$2.70	50,000	\$135,000
FY 2023-24 Total				\$135,000
FY 2024-25	Registration	\$2.70	50,000	\$135,000
FY 2024-25 Total				\$135,000

Civil penalties. Under the Colorado Consumer Protection Act, a person committing a deceptive trade practice may be subject to a civil penalty of up to \$20,000 for each violation. Additional penalties may be imposed for subsequent violations of a court order or injunction. This revenue is classified as a damage award and not subject to TABOR. Given the uncertainty about the number of cases that may be pursued by the Attorney General and district attorneys, as well as the wide range in potential penalty amounts, the fiscal note cannot estimate the potential impact of these civil penalties.

Filing fees. The bill may increase revenue to the Judicial Department from an increase in civil case filings. Revenue from filing fees is subject to TABOR.

State Transfers

The fiscal note estimates that \$3,837,087 will be transferred from the General Fund to the Mobile Home Park Water Quality Fund in FY 2023-24. It is assumed that this transfer will occur via an appropriation to the fund, and be used to support the testing, grants, and remediation programs in CDPHE. Based on the estimated costs, a further \$7,526,314 will be appropriated to the fund in FY 2024-25. The latter total includes \$2.2 million in grants to be disbursed each year; however, this amount is at the discretion of the General Assembly.

The bill also requires a transfer of \$166,499 in FY 2023-24 from the General Fund to the Mobile Home Park Act Dispute Resolution and Enforcement Program Fund to cover costs in DOLA that are incurred in the first year while the change in fee revenue is being established. It is assumed that this transfer will occur via an appropriation from the General Fund to the cash fund.

State Expenditures

The bill increases state expenditures, primarily in CDPHE by \$4.0 million in FY 2023-24 and \$7.7 million in FY 2024-25, paid from the Mobile Home Park Water Quality Fund and the Mobile Home Park Act Dispute Resolution and Enforcement Program Fund. Expenditures are shown in Table 3 and detailed below.

**Table 3
 Expenditures Under HB 23-1257**

	FY 2023-24	FY 2024-25
Department of Public Health and Environment		
Personal Services	\$801,116	\$1,614,231
Operating Expenses	\$12,285	\$24,435
Capital Outlay Costs	\$60,030	\$13,340
Grant Program	-	\$2,210,000
Testing Program	\$2,565,380	\$3,099,380
Legal Services	\$190,332	\$190,332
Travel	\$23,537	\$14,857
Interpretation	\$9,100	\$9,100
Centrally Appropriated Costs ¹	\$175,307	\$350,639
FTE – Personal Services	9.1 FTE	18.1 FTE
FTE – Legal Services	1.0 FTE	1.0 FTE
CDPHE Subtotal	\$3,837,087	\$7,526,314
Department of Local Affairs		
Personal Services	\$100,294	\$100,294
Operating Expenses	\$2,700	\$2,700
Capital Outlay Costs	\$13,340	-
Computer Programming	\$18,750	-
Centrally Appropriated Costs ¹	\$31,415	\$31,415
FTE – Personal Services	2.0 FTE	2.0 FTE
DOLA Subtotal	\$166,499	\$134,409
Total	\$4,003,586	\$7,660,723
Total FTE	12.1 FTE	21.1 FTE

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

Department of Public Health and Environment. Expenditures increase beginning in FY 2023-24 for the testing program, the grant program, water quality remediation, and enforcement activities. Standard operating and capital outlay costs are included throughout.

- **Water quality testing.** There are approximately 750 mobile home parks in Colorado, and the bill requires 25 percent of them to undergo testing per year through FY 2027-28. The department will hire a contractor to develop a sampling plan and carry out the water testing. The contractor will also develop the Action Plan. Costs for the contract are estimated at \$1.4 million in FY 2023-24 and \$1.9 million in FY 2024-5, and laboratory test are estimated at approximately \$1.2 million per year. CDPHE requires 3.0 FTE to coordinate with the contractor, review sampling plans, and conduct outreach.
- **Grant program.** CDPHE requires 2.2 FTE beginning in FY 2024-45 to administer the grant program, including developing application procedures, soliciting and reviewing applications, making grant payments, and monitoring grant activities. Most of the program's expenditures will be for grants; additional costs include annual subscription for grants management software.
- **Remediation.** Staff are required to develop and oversee remediation plans for mobile home parks at which water quality issues are identified. This is expected to require 8.3 FTE beginning in FY 2023-24, prorated for a January 1 start date. The overall workload will depend on the incidence of water quality issues, and any increase or decrease in expenditures will be addressed through the budget process.
- **Enforcement.** CDPHE requires an estimated 2.0 FTE beginning in FY 2023-24, prorated for a January 1 start date, to issue cease-and-desist orders, support enforcement activities by Attorney General as necessary, and support nuisance cases with local governments.
- **Legal services.** CDPHE requires 1,800 hours of legal services to provide general counsel on implementing the bill and to support enforcement activities through cease-and-desist orders and Colorado Consumer Protection Act remedies. Legal services are provided by the Department of Law at a rate of \$105.74 per hour.
- **Other costs.** Testing, remediation, and grants monitoring requires travel, mileage reimbursement at the standard rate, hotel, and per diem. The bill requires that test results be translated into Spanish or another language as requested by mobile home park residents. CDPHE must also ensure that materials, information, and communications for the testing program are translated into Spanish or other languages. This requires 3.0 FTE for translation and interpretation, as well as equipment to facilitate real-time interpretation during interviews.

DOLA. The bill increases expenditures to respond to inquiries and complaints and to update the mobile home park registration software. Expenditures are paid from the Mobile Home Park Act Dispute Resolution and Enforcement Program Fund, which is continuously appropriated to DOLA.

- **Staffing.** The Mobile Home Park Oversight Program requires 2.0 FTE beginning in FY 2023-24 to respond to inquiries concerning water testing requirements and to support park owners with new registration requirements. This workload may abate in future years as water quality issues are resolved. Standard operating and capital outlay costs are included.

- **Computer programming.** The program requires updates to its registration software to capture water quality and remediation data. Programming services, provided by the Office of Information Technology, are estimate to require at least 150 hours of labor at \$125 per hour.

Judicial Department. The trial courts in the Judicial Department may have an increase in cases filed under the Colorado Consumer Protection Act from the addition of a new deceptive trade practice. It is assumed that mobile home park owners will abide by the law and that violations will result in a minimal number of new cases. No change in appropriations is required.

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. 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

Revenue and expenditures will increase for any local government that is awarded a grant.

Similar to the state, to the extent district attorneys receive deceptive trade practice complaints related to the new deceptive trade practice under the bill, workload will increase to investigate complaints and seek relief when appropriate. It is assumed most such cases will be handled at the state level by the Attorney General.

Any mobile home park that fails to implement a remediation plan may be forfeited to a county. In these cases, workload will increase for the district attorney to pursue a public nuisance action and revenue and expenditures will increase for the county to operate the mobile home park.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and applies to conduct occurring on or after this date.

State Appropriations

For FY 2023-24, the bill requires the following appropriations:

- \$3,837,087 from the General Fund to the Mobile Home Park Water Quality Fund;

- \$3,661,780 from the Mobile Home Park Water Quality Fund to the Department of Public Health and Environment, and 9.1 FTE. Of this, \$190,332 is reappropriated to the Department of Law, with 1.0 FTE; and
- \$166,499 from the General Fund to the Mobile Home Park Act Dispute Resolution and Enforcement Program Fund, which is continuously appropriated to the Department of Local Affairs.

State and Local Government Contacts

Counties

Law

Public Health and Environment

Information Technology

Local Affairs

Judicial

Personnel and Administration