

*Colorado Legislative Council Staff Fiscal Note*  
**STATE**  
**REVISED FISCAL IMPACT**  
(replaces fiscal note dated January 23, 2013)

<b>Drafting Number:</b> LLS 13-0359	<b>Date:</b> April 25, 2013
<b>Prime Sponsor(s):</b> Rep. Fischer	<b>Bill Status:</b> Senate Second Reading
Sen. Schwartz	<b>Fiscal Analyst:</b> Kirk Mlinek (303-866-2756)

**TITLE:** CONCERNING THE AUTHORIZATION OF THE USE OF GRAYWATER, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
<b>State Revenue</b>		
<b>State Expenditures</b> General Fund	\$110,293	
<b>FTE Position Change</b>	1.4 FTE	
<b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature.		
<b>Appropriation Summary for FY 2013-2014:</b> See State Appropriations 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.		

**Summary of Legislation**

This reengrossed bill, **as amended by the Senate Appropriations Committee**, 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 board of health, local public health agencies, and any water and sanitation service providers serving the county, and must also provide for local enforcement of the WQCC regulation.

Graywater treatment works, as defined in the bill, are added to the rulemaking purview of groundwater management districts. 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.

**State Expenditures**

To develop and adopt rules and guidance concerning graywater use, CDPHE will incur one-time costs in FY 2013-14 of \$110,293 General Fund and 1.4 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 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 2013-14. As soon as practicable after the effective date of the bill, CDPHE will assign staff to:

- hold stakeholder meetings;
- 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.

An environmental protection specialist II will work full-time on the project (0.9 FTE for FY 2013-14), while other CDPHE personnel will assist the project on a part-time basis, namely: a professional engineer II at 0.2 FTE, a professional engineer III at 0.1 FTE, and a program assistant I at 0.2 FTE. The fiscal note assumes the stakeholder process will involve 6 overnight trips, incurring per diem, mileage, and hotel costs totaling \$4,128. In addition, the Department of Law will advise CDPHE and the WQCC throughout the regulatory process, averaging 10 hours per month for a full year, requiring that \$9,270 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 2013-14</b>
Personal Services	\$88,981
FTE	1.4
Operating Expenses and Capital Outlay	7,914
Legal Services (10 hours*12 mos.*\$77.25/hour)	9,270
Travel	4,128
<b>TOTAL</b>	<b>\$110,293</b>

Should the regulatory process described in this paragraph extend beyond July 1, 2014, the fiscal note assumes that CDPHE will revert some of its FY 2013-14 spending authority and seek an appropriation for FY 2014-15 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.

**No appropriation clause.** As amended, the bill specifies that DPHE is required to implement the provisions of this bill within existing resources and that no additional appropriation of funds or FTE is required. However, even when bills specify that no appropriation is required, legislative rules require that fiscal notes analyze the workload and cost impacts to state agencies that are expected to result from the bill. To the extent that workload increases as estimated in the fiscal note and funding is not provided in the bill, agencies may be required to seek additional funding through the annual budget process in the future.

### **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 13-1044*</b>	
<b>Cost Components</b>	<b>FY 2013-14</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$8,016
Supplemental Employee Retirement Payments	5,462
<b>TOTAL</b>	<b>\$13,478</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 example, reduced flow to existing wastewater treatment facilities may decrease costs to plan and build new treatment capacity.

**State Appropriations**

While the bill contains a no appropriation clause, the Department of Public Health and Environment requires a General Fund appropriation of \$110,293 and 1.4 FTE for FY 2013-14. Of this amount, \$9,270 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 2013-14. 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	Local Affairs	Natural Resources
Judicial	Law	Public Health and Environment
Transportation	Counties	Corrections
Governor	Municipalities	Special Districts