

Fiscal Estimate - 2021 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 21-2927/3	Introduction Number SB-361
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Description
 regulating and addressing PFAS, providing an exemption from rule-making procedures, granting rule-making authority, and making an appropriation

Fiscal Effect

State:

<input type="checkbox"/> No State Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	
<input checked="" type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Decrease Existing Appropriations		
<input checked="" type="checkbox"/> Create New Appropriations		

Local:

<input type="checkbox"/> No Local Government Costs		
<input type="checkbox"/> Indeterminate	5. Types of Local Government Units Affected	
1. <input checked="" type="checkbox"/> Increase Costs	3. <input checked="" type="checkbox"/> Increase Revenue	<input checked="" type="checkbox"/> Towns <input checked="" type="checkbox"/> Village <input checked="" type="checkbox"/> Cities
<input checked="" type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input checked="" type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others
2. <input type="checkbox"/> Decrease Costs	4. <input type="checkbox"/> Decrease Revenue	<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

Fund Sources Affected <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEGS	Affected Ch. 20 Appropriations 20.370 (1)(mu), (4)(mq), (4)(dv), (4)(pr), (4)(ps), (6)(ed), (6)(ee)
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Agency/Prepared By DNR/ Paul Neumann (608) 266-0818	Authorized Signature Paul Neumann (608) 266-0818	Date 7/28/2021
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Fiscal Estimate Narratives

DNR 7/28/2021

LRB Number	21-2927/3	Introduction Number	SB-361	Estimate Type	Original
Description regulating and addressing PFAS, providing an exemption from rule-making procedures, granting rule-making authority, and making an appropriation					

Assumptions Used in Arriving at Fiscal Estimate

The bill makes various changes to existing programs, creates new programs and standards, provides funding, and creates new positions to address PFAS.

I. State Fiscal Impact

A. Bill Provisions With One-Time Costs

1. The bill provides \$750,000 of one-time Environmental SEG funding for the Department to test for PFAS in non-community and municipal public water systems.
2. The bill provides \$1,000,000 of one-time Environmental SEG funding to establish a PFAS-containing firefighting foam collection and disposal program and directs the Department to promulgate emergency rules as the program necessitates.
3. The bill requires the Department to work with the Department of Health Services to submit a joint report to the legislature no later than June 30, 2023 on the feasibility and advisability of regulating PFAS as one or more classes of substances. This work will require the coordination and contributions of toxicologists and staff from multiple programs. It is anticipated it will require the equivalent of 0.25 FTE and one-time funding of \$22,500 to complete the report.

B. Bill Provisions With Ongoing Costs

1. As it relates to item A1 above, the Department estimates it would need 3.0 FTE Water Supply Specialist positions at an estimated annual cost of \$90,000 per FTE for testing of non-community and municipal public water systems.
2. As it relates to item A2 above, the Department estimates that it would need the equivalent of 1.0 FTE and \$128,700 of annual funding for salary, fringe and supplies to develop and execute a firefighting foam collection program, oversee subcontractors, coordinate compliance and record-keeping, and oversee rulemaking processes as appropriate. Staff would also be expected to provide technical assistance to the firefighting community.
3. The bill provides \$2 million of annual GPR funding for the Department to create and administer a county PFAS well testing grant program. From that amount, the bill also provides for 1 FTE to administer the program at an estimated annual cost of \$90,000 (includes salary, fringe and supplies); therefore, annual funding for well testing grants is estimated to be \$1,910,000 (\$2 million less the \$90,000 of position costs).
4. The bill provides \$55,000 per year of ongoing Environmental SEG funding for sampling rivers, and \$25,000 per year of ongoing Environmental SEG funding for sampling wastewater treatment facilities. The Department would provide oversight and administration to conduct the sampling, in addition to the coordination and dissemination of results to the public. It is anticipated the sampling work will require the equivalent of 1.0 FTE at an estimated annual cost of \$90,000 (includes salary, fringe and supplies).
5. The bill provides \$600,000 per year of ongoing Environmental SEG funding to support the investigation and addressing of contamination at sites and facilities for which there is no known responsible party (RP) or for which the state has assumed responsibility. This would allow the Department to provide communities with temporary emergency potable water or treatment. It is estimated it would take the equivalent of 1.0 FTE at an estimated annual cost of \$90,000 (includes salary, fringe and supplies) for oversight and administration of these additional funds.

6. The bill provides \$10,000,000/year of ongoing GPR funding for a PFAS municipal grant program. It is expected this program would require 1.0 FTE at an estimated annual cost of \$128,700 (includes salary, fringe and supplies) to administer the program. This position will be responsible for promulgating rules for establishing grant criteria and defining eligible entities and eligible practices administering the grant program. Additionally, the position above will be responsible for the maintenance of the PFAS action fund including establishing and managing individual accounts and billing for settlements as well as rule-making, oversight and administration of financial responsibility for PFAS.

7. The bill provides 1.0 FTE and ongoing Fish & Wildlife Account SEG funding of \$79,200 for a toxicologist in the Bureau of Wildlife Management. This position would allow continued and increased wildlife sampling due to known or suspected PFAS contamination, development of sampling methodologies for wildlife including coordination within the state and nationally on research, data sharing and testing methodologies, education of communities impacted by PFAS contamination to wildlife if/when found, and coordination with the Department of Health Services to assess health risk and relay information to the public.

8. The bill requires the Department to write and implement rules for groundwater quality standards and maximum containment levels for public drinking water systems. There would staff time required for rule-making for PFAS Maximum Contaminant Levels (MCLs) in the safe drinking water regulation (Administrative Code NR 809) that includes setting sample protocols, analysis methods and laboratory reporting limits, setting sampling requirements, compliance determination, public notification requirements and language, vulnerability assessments and source water protection, treatment technologies, waivers, exemptions, reporting and record-keeping. A fiscal estimate of this step is indeterminate at this time. The Department is currently engaged in the rule-making effort. This would require the equivalent of 1.0 FTE at an estimated annual cost of \$90,000 (includes salary, fringe and supplies).

9. The bill updates current law so the Department must require responsible parties to establish residual contaminant levels for the cleanup of contaminated soil and sediment as a result of a discharge of PFAS for which DHS has recommended a groundwater standard. There would be staff time required that may include methodology and sampling protocol guidance development and technical assistance, ongoing coordination and compliance determination, reporting and record-keeping. This would require the equivalent of 0.5 FTE at an estimated annual cost of \$45,000 (includes salary, fringe and supplies).

10. The bill requires the Department to write and implement rules for air emission standards and reporting requirements for PFAS. There would be staff time required that may include methodology and sampling protocol guidance development and technical assistance, ongoing coordination and compliance determination, reporting and record-keeping. This would require 2.0 FTE at an estimated annual cost of \$180,000 (includes salary, fringe and supplies).

C. Bill Provisions With Costs Absorbed Among Existing Staff

1. The bill directs the Department to establish criteria for certifying laboratories to test for PFAS compounds. The Lab Certification Program is self-funded through fees assessed to the laboratories participating in the program. Certification for PFAS will increase costs to the laboratories seeking certification but decrease costs proportionally to the other labs in the program. The Program can absorb the increased workload related to PFAS certification with current staffing.

2. The bill requires the Department to modify the priority protocol for the Safe Drinking Water Loan Program to consider PFAS as if a maximum contaminant level for PFAS had been attained or exceeded, if DHS has recommended an enforcement standard for the type of PFAS involved in the project. The Program can absorb the increased workload related to this program modification with current staffing.

3. The bill creates an option for the Department to appoint a neutral, third-party mediator to help negotiate between municipalities and responsible parties when one municipality needs to obtain an alternate water source or connect to a water source within a different municipality as a result of PFAS contamination. The Department is directed to limit the amount of staff time allocated to each negotiation. The Program can absorb the increased workload related to this option with current staffing.

4. The bill prohibits the distribution, sale, or offering for sale of any food packaging that contains intentionally added PFAS effective January 1, 2025. The Department can absorb the increased workload related to this option with current staffing.

5. The bill provides the Department with the option to seek proof of financial responsibility for PFAS contamination. The bill also provides the Department with access to information about solid or hazardous waste transportation, storage, or disposal at another site, facility or location. The programs can absorb the

increased workload related to these options with current staffing.

D. Bill Provisions With An Indeterminate Fiscal Impact

1. The bill creates a PFAS action fund, to collect all moneys received from settlement agreements in court actions, or proposed actions, resulting from PFAS contamination. The funds must be used to carry out the purposes for which they were received. Since it is difficult to estimate the number of settlements agreements to which the new fund would apply, the fiscal effect of this bill provision is indeterminate.

II. Local Fiscal Impact

The fiscal impact on towns, villages, cities and counties would be based on the extent to which they qualify for a PFAS municipal grant or a county well testing grant.

Long-Range Fiscal Implications

