

LOCAL

CONDITIONAL FISCAL IMPACT

Drafting Number: LLS 07-0527

Date: February 7, 2007

Prime Sponsor(s): Rep. Fischer
Sen. Bacon

Bill Status: House Local Government

Fiscal Analyst: Brad Denning (303-866-4777)

TITLE: CONCERNING THE AUTHORITY OF A COUNTY TO ABATE CONDITIONS THAT CONTRIBUTE TO A VIOLATION OF A GENERAL STORMWATER QUALITY PERMIT ISSUED TO THE COUNTY BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

Fiscal Impact Summary	FY 2007-2008	FY 2008-2009
State Revenue	\$0	\$0
State Expenditures	\$0	\$0
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: Upon signature of the Governor.		
Appropriation Summary for FY 2007-2008: None required.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

The bill allows a board of county commissioner to adopt an ordinance requiring a stormwater management program. The Colorado Department of Public Health and Environment (DPHE) regulates the control of stormwater to reduce the amount of pollutants entering streams, lakes, and rivers as a result of runoff from residential, commercial, and industrial areas. A county program would require the abatement of pollution violating a county’s stormwater general permit or requirement for a property located within an unincorporated area of the county. The ordinance may specify that a county is allowed to:

- perform an abatement when the property owner fails to do so; and
- assess an abatement cost, including 5 percent for additional costs, on the property where the pollution is abated.

Stormwater ordinances adopted according to this bill must include procedures for applying to a county or district court that has jurisdiction over the property where the county conducts an abatement for an administrative entry and seizure warrant. An assessment for the abatement cost is required to be a lien against the property until paid.

State Expenditures

This fiscal note assumes that if some counties adopt an ordinance to more actively pursue polluters, some of these counties may file a civil action in a district or county court to obtain an administrative entry and seizure warrant. The Judicial Branch may experience more civil case filings, but these are absorbable within existing resources. There are approximately 5,000 active stormwater permits, but there is no available data to determine the number of permits issued to counties. Current law requires the DPHE to enforce stormwater violations by suspending permits, issuing cease and desist orders, or seeking an injunction should a business or person cause a discharge (Section 25-8-501 C.R.S.). This bill does not change current law regarding enforcement, but the DPHE may experience a decrease in expenses should counties increase their enforcement. These expenditures have not been estimated.

Local Government Impact

A county deciding to adopt a stormwater management program may experience an increase in enforcement expenses to pursue polluters that threaten to violate its stormwater general permit, but these costs may be offset by the county's ability to assess an abatement cost.

Departments Contacted

Judicial

Local Affairs

Public Health and Environment