



Colorado Legislative Council Staff Fiscal Note
**STATE and LOCAL
 FISCAL IMPACT**

Drafting Number: LLS 11-0882
Prime Sponsor(s): Sen. Schwartz

Date: May 4, 2011
Bill Status: Senate Agriculture
Fiscal Analyst: Alex Schatz (303-866-4375)

TITLE: CONCERNING THE RECYCLING OF ELECTRONIC DEVICES, AND, IN CONNECTION THEREWITH, REQUIRING PROCESSORS OF ELECTRONIC DEVICES TO BE CERTIFIED AND REQUIRING COLLECTORS OF ELECTRONIC DEVICES TO BE REGISTERED.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue		
Cash Funds		
Electronics Recycling Cash Fund		\$100,000
State Expenditures		
General Fund*		
Cash Funds*		
Electronics Recycling Cash Fund*	\$34,412*	\$81,312
FTE Position Change	0.4 FTE	1.0 FTE
Effective Date: August 10, 2011, if the General Assembly adjourns on May 11, 2011, as scheduled, and no referendum petition is filed.		
Appropriation Summary for FY 2011-2012: See State Appropriations section.		
Local Government Impact: See Local Government Impact section.		

* Under the bill, fees from processors are not payable to the Electronics Recycling Cash Fund until October 1, 2012. This note assumes that the fund is credited sufficient moneys in FY 2011-12 to pay for CDPHE's preliminary work to implement the bill. As an alternative cash fund source, funds in the Solid Waste Management Fund may be directed to implementation of the bill. If cash funds are not available, the bill will require an equivalent General Fund appropriation for FY 2011-12.

Summary of Legislation

This bill establishes the Electronic Recycling Act, under which the Colorado Department of Public Health and Environment (CDPHE) regulates collectors and processors of certain electronic waste. Eligible electronic devices (EEDs) include television and computer video devices with a 4-inch or larger screen and computer central processing units. Various other electronic devices, including car parts, appliance controls, traffic devices, medical devices, and telephones, are excluded from the bill's definition of an eligible electronic device.

The bill requires state agencies recycling or disposing of EEDs to use only registered collectors and processors as of October 1, 2012. Specific implementation goals and deadlines are summarized in Table 1.

Table 1: Staged Implementation of SB 11-269		
Key Dates	Task	Details
By May 2012, and annually thereafter.	Annual report to General Assembly.	As applicable, CDPHE reports on number of registered processors and collectors, calculation of statewide recycling rate of electronic devices, and other aspects of implementation of the bill.
By July 1, 2012.	Promulgate administrative rules.	Annual processor fee structure, minimum standards for processors and collectors, and other rules necessary to implement the Consumer Electronics Recycling Act to be promulgated by SHWC.
By October 1, 2012.	Establish registration program.	Processors and collectors must register with CDPHE. Processors pay an annual fee.
Effective October 1, 2012.	State compliance.	All state agencies must use only collectors and processors registered with CDPHE for disposal or recycling of eligible electronic devices.
By January 1, 2013.	Processor certification.	All registered processors must prove compliance with national (as required if the processor handles 50 tons per year or more) or state certification standards. For processors registered after October 1, 2012, proof of certification must be provided within 18 months after commencing operations.
Effective January 1, 2014.	Annual reports.	Processors submit to CDPHE a report to include weight of electronic devices collected, contributing collectors, and final disposition of recycled materials.
By July 1, 2014.	Attainment of aspirational recycling rate or strategic reassessment.	If processing of EEDs in Colorado does not equal or exceed 2 pounds per resident each year by July 1, 2014, CDPHE will develop and report to the General Assembly strategies for increasing the state's recycling rate.

The bill requires collectors and processors of EEDs to register with CDPHE and adhere to certain statutory standards and standards adopted in rules by the Solid and Hazardous Waste Commission (SHWC). The bill creates the Electronics Recycling Cash Fund to receive fees paid by processors. The bill provides that the collectors and processors are not liable for data left on an electronic device by a consumer.

Processors must prove that they are certified as compliant with either national or state standards. For a processor that handles at least 50 tons (100,000 pounds) of EEDs per year, proof of certification under the R2 or e-Steward program must be submitted to CDPHE. Processors handling under 50 tons of EEDs annually may obtain one of the two referenced national

certifications, or they may be certified by CDPHE under state standards if established and allowed by SHWC rule.

Background

Two industry standards have evolved for electronic waste management. The "R2" standards are a product of collaboration between the U.S. Environmental Protection Agency and industry groups. The "e-Steward" standards are the product of a private nonprofit that emphasizes environmental justice in addition to safe disposal. As a point of contrast, R2 standards allow the export of old computers for reuse in developing nations, while e-Steward standards do not permit this practice. On many points, the two certification systems are complimentary.

There are an estimated 20 to 25 processors in Colorado that would qualify for certification under the bill, and an estimated 200 collectors. A substantial number of the processors are already certified under either the R2 or e-Steward program.

State Revenue

To cover the direct costs of the bill, fees collected by CDPHE from processors will total \$100,000 in FY 2012-13 and subsequent years. As shown in Table 2, below, the annual fee for recycler certification is estimated at \$4,000.

While CDPHE is authorized to assess administrative fines when any regulated individual or business entity fails to comply with the bill, the fiscal note assumes the regulated community operates in compliance with the bill. No fine revenue is assessed for the bill.

Fee Impact on Individuals, Families or Business

Section 2-2-322, C.R.S., requires legislative service agency review of measures which create or increase any fee collected by a state agency. The table below identifies the fee impact of this bill.

Table 2. Fee Impact on Individuals, Families or Business Under SB 11-269					
Type of Fee	Current Fee	Proposed Fee	Fee Change	Number Affected	Total Fee Impact
Processor Annual Certification	\$0	\$4,000	\$4,000	25	\$100,000
TOTAL					\$ 100,000

State Expenditures

The state's potential expenditures under the Electronics Recycling Act are associated with both implementation of regulations and compliance with these regulations. CDPHE will have

personal services and operating expenses, including billable legal costs in the Department of Law, to create and enforce the regulatory framework required by the bill. The Department of Corrections may have increased costs to register and comply with rules governing its surplus electronics program in Colorado Correctional Industries (CCI). Expenditures for CDPHE and the Department of Law are outlined in Table 3.

Cost Components	FY 2011-12	FY 2012-13
Personal Services	\$ 17,238	\$ 56,471
FTE, including Department of Law	0.4	1.0
Operating Expenses, Including Travel	2,500	2,830
Legal Services	14,674	22,011
TOTAL	\$ 34,412	\$ 81,312

The fiscal note assumes that the Electronics Recycling Cash Fund is available for appropriations in FY 2011-12. This fiscal note will be revised to reflect a General Fund appropriation for FY 2011-12 if registration and certification fees will not adequately accumulate or be credited in the Electronics Recycling Cash Fund for appropriation in that fiscal year.

Department of Public Health and Environment (CDPHE). Expenditures for CDPHE are expected to increase by \$34,412 and 0.3 FTE in FY 2011-12, and by \$81,312 and 0.8 FTE in FY 2012-13. Costs will increase to provide staffing in the CDPHE, as needed to establish a registration system, perform inspection and enforcement functions, compile and compose an annual report, and draft and update rules for consideration by the SHWC. In addition to standard costs, operating expenses include travel for inspections and stakeholder meetings.

Department of Law. To support rulemaking, enforcement, and administrative legal needs of the electronic device recycling program in CDPHE, the Department of Law will dedicate 0.1 FTE in FY 2011-12 and 0.2 FTE in FY 2012-13.

Department of Corrections (DOC). Currently, Colorado Correctional Industries (CCI) in the DOC takes possession of all state-owned surplus computers after the Office of Information Technology has erased information from each unit. CCI then resells these electronic devices in as-is condition. This activity may or may not require CCI to register as a collector, which, in turn, could interfere with the electronics resale aspect of CCI's business model, as collectors are prohibited under the bill from delivering devices to anyone but a processor.

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 4.

Table 4. Expenditures Not Included Under SB 11-269*		
Cost Components	FY 2011-12	FY 2012-13
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$1,775	\$5,680
Supplemental Employee Retirement Payments	780	3,011
Indirect Costs	4,266	12,487
TOTAL	\$6,821	\$21,178

**More information is available at: <http://colorado.gov/fiscalnotes>*

Local Government Impact

Certain local governments derive revenue from tipping fees or taxation of landfill operations. Successful diversion of electronic waste could reduce local government revenue from landfills. According to a recent characterization of municipal waste by the Environmental Protection Agency, consumer electronics (including both EEDs and excluded devices under the bill) comprise slightly less than 2 percent of the total waste stream to landfills.

State Appropriations

The Department of Public Health and Environment requires an appropriation of \$34,412 from the Electronics Recycling Cash Fund and 0.3 FTE for FY 2011-12. Of this amount, \$14,674 is reappropriated to the Department of Law. Additionally, the Department of Law requires 0.1 FTE in FY 2011-12.

Departments Contacted

Public Health and Environment
Office of Information Technology
Governor's Energy Office
Personnel and Administration

Law
Local Affairs
Natural Resources

Corrections
Governor's Office
Regulatory Agencies