


 Colorado Legislative Council Staff Fiscal Note

**STATE**  
**FISCAL IMPACT**


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<b>Drafting Number:</b> LLS 11-1017	<b>Date:</b> April 25, 2011
<b>Prime Sponsor(s):</b> Sen. Giron	<b>Bill Status:</b> Senate Agriculture
Rep. Pace; Swerdfeger	<b>Fiscal Analyst:</b> Alex Schatz (303-866-4375)

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**TITLE:** CONCERNING METHODS TO REDUCE THE AIR QUALITY PERMIT APPLICATION BACKLOG, AND, IN CONNECTION THEREWITH, AUTHORIZING THE USE OF NONGOVERNMENTAL AIR QUALITY MODELING ENGINEERS FOR PURPOSES OF PERMIT APPLICATION APPROVALS AND PRIORITIZING PERMIT APPLICATIONS BASED ON FACTORS OTHER THAN THE DATE OF FILING.

<b>Fiscal Impact Summary</b>	<b>FY 2011-2012</b>	<b>FY 2012-2013</b>
<b>State Revenue</b>		
Cash Funds		
Stationary Sources Control Fund		
<b>State Expenditures</b>		
Cash Funds		
Stationary Sources Control Fund	113,707	86,335
<b>FTE Position Change</b>	1.5 FTE	1.2 FTE
<b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature.		
<b>Appropriation Summary for FY 2011-2012:</b> See State Appropriations section.		
<b>Local Government Impact:</b> None.		

### Summary of Legislation

The bill creates a process to expedite the air permitting process in the Colorado Department of Public Health and Environment (CDPHE). To establish emissions for an application, an air permit applicant may contract with a modeling contractor on CDPHE's list of at least two contractors published by June 15, 2011, or the applicant may contract with two modeling contractors, with one contractor providing modeling services and the second contractor verifying these results. CDPHE is also required to establish by November 1, 2011, a system for prioritizing applications based on work flow efficiency, economic impact, and other factors that may be included in the policy to be adopted by the Air Quality Control Commission (AQCC).

## **Background**

The Air Pollution Control Division (APCD) of CDPHE receives approximately 2,500 to 3,000 air permit applications annually. The current resources of APCD are not adequate to process all applications and address a backlog of air quality permit applications and renewals, particularly permits requiring emissions modeling. The current backlog in APCD is about 1,200 air permit applications, predominantly from the oil and gas industry.

## **State Revenue**

To the extent that the bill increases costs to the CDPHE, funding the prioritization program for air permits may require additional fees from the Stationary Sources Control Fund, which pays for air permitting in APCD. However, according to the December 2010 report of the State Auditor concerning cash funds with uncommitted reserves, the Stationary Sources Control Fund may have excess reserves sufficient to fund the bill in FY 2011-12.

## **State Expenditures**

**The bill will increase costs to CDPHE by \$113,707 and 1.5 FTE for FY 2011-12, and by \$86,335 and 1.2 FTE for FY 2012-13.**

To comply with the bill, the APCD will have one-time costs to establish an air modeling contractor list by June 15, 2011, and adopt, by November 1, 2011, a policy for prioritization of permit applications. The department anticipates 0.6 FTE in FY 2011-12 to conduct a stakeholder input process and make appropriate reports and recommendations to the AQCC.

The APCD will require 0.9 FTE in FY 2011-12 and 1.2 FTE in FY 2012-13 for ongoing costs. These costs in the APCD include evaluation of permits and permit applications relative to criteria for prioritization and checking contractor modeling for technical accuracy and regulatory compliance. Expenditures in the APCD are summarized in Table 1.

<b>Table 1. Expenditures for the Department of Public Health and Environment Under SB 11-235</b>		
<b>Cost Components</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>
Personal Services	\$ 105,227	\$ 85,195
FTE	1.5	1.2
Operating Expenses	1,425	1,140
Capital Outlay (one-time cost)	7,055	0
<b>TOTAL</b>	<b>\$ 113,707</b>	<b>\$ 86,335</b>

The fiscal note assumes that APCD will produce a contractor list in the current fiscal year within existing resources. The fiscal note also assumes that, once a prioritization policy is adopted, a continuous level of effort is sufficient to apply and maintain priority rankings for substantive review. Finally, by engaging a third party air modeler under the bill, the fiscal note assumes applicants not otherwise likely to be prioritized will be able to expedite the review process; applicants' awareness and use of options under the bill is ultimately necessary to address the APCD backlog of air permits.

### **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 SB11-235*</b>		
<b>Cost Components</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$10,650	\$8,520
Supplemental Employee Retirement Payments	4,762	3,855
Indirect Costs (21.4%)	27,631	21,124
<b>TOTAL</b>	<b>\$43,043</b>	<b>\$33,499</b>

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

### **State Appropriations**

For FY 2011-12, the Department of Public Health and Environment requires a cash funds appropriation of \$113,707 and 1.5 FTE from the Stationary Sources Control Fund.

### **Departmental Differences**

The fiscal note concurs with CDPHE that approximately 2,175 hours of annual effort is required of APCD personnel to implement the prioritization program. This estimate is based on the current rate of air permit applications, at 2,500 to 3,000 per year. The fiscal note shows the associated annual cost of prioritization beginning on November 1, 2011, in accordance with the bill.

Where the fiscal note provides a prorated 0.7 FTE for prioritization in FY 2011-12, CDPHE estimates that it will require an entire year's worth of prioritization resources (over 1.0 FTE) in the eight months after the policy takes effect on November 1, 2011, in effect a 50 percent increase over the annual budget. While the fiscal note concurs that backlogged and newly received permits will be eligible for prioritization, the process is inherently dynamic and without a deadline in the bill; supplementary personnel costs in FY 2011-12 are not required to address the existing backlog of permits and permit applications received after the enactment of the bill.

The backlog of air permits in APCD is a function of limited resources in the substantive review process. Under the bill, the substantive review process will receive priority permits starting in November 2011 and work at capacity without interruption. **Additional resources to prioritization serve only to accelerate the transfer of an existing backlog of non-prioritized air permit applications to a backlog of prioritized applications.**

**Departments Contacted**

Public Health and Environment  
Governor's Energy Office

Natural Resources  
Personnel and Administration

State  
Law