

*Colorado Legislative Council Staff Fiscal Note*

**STATE**

**REVISED FISCAL IMPACT**

(replaces fiscal note dated March 13, 2012)

|                                     |   |
|-------------------------------------|---|
| <b>Drafting Number:</b> LLS 12-0378 | <b>Date:</b> March 19, 2012                       |
| <b>Prime Sponsor(s):</b> Rep. Coram | <b>Bill Status:</b> House Finance                 |
| Sen. Giron; King S.                 | <b>Fiscal Analyst:</b> Kerry White (303-866-3469) |

**TITLE:** CONCERNING LIMITATIONS ON THE IMPOSITION OF FINES BY STATE AGENCIES FOR MINOR VIOLATIONS, AND, IN CONNECTION THEREWITH, DEFINING A MINOR VIOLATION AS AN INSPECTION-RELATED OR PAPERWORK VIOLATION OF STATE LAW OR STATE AGENCY RULE THAT DOES NOT HARM OR THREATEN PUBLIC HEALTH OR SAFETY AND REQUIRING A STATE AGENCY TO PROVIDE A VIOLATOR WITH NOTICE AND AN OPPORTUNITY TO CURE A MINOR VIOLATION BEFORE IMPOSING A FINE.

| <b>Fiscal Impact Summary</b>   | <b>FY 2012-2013</b>          | <b>FY 2013-2014</b>          |
|--|------------------------------|------------------------------|
| <b>State Revenue</b>   | <u>(up to \$2.8 million)</u> | <u>(up to \$2.8 million)</u> |
| General Fund   | (up to 2.3 million)          | (up to 2.3 million)          |
| Cash Funds   |                              |                              |
| Water Quality Improvement Fund   | (up to 511,000)              | (up to 511,000)              |
| <b>State Expenditures</b>  |                              |                              |
| General Fund   | \$2,728,686                  | \$2,550,442                  |
| <b>FTE Position Change</b>   | 37.9                         | 37.9                         |
| <b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature. |                              |                              |
| <b>Appropriation Summary for FY 2012-2013:</b> See State Appropriations section.                   |                              |                              |
| <b>Local Government Impact:</b> None.  |                              |                              |

**Summary of Legislation**

As amended by the House Economic and Business Development Committee and revised to reflect updated information, this bill limits the ability of the Colorado Department of Public Health and Environment (CDPHE) to impose fines for inspection-related or paperwork violations that do not harm or threaten public health or safety. Specifically, CDPHE may not issue fines for an inspection-related violation if the violator makes a reasonable attempt to comply with state rule or law, unless written notice was provided within 20 business days of the inspection and the violator has not cured the violation within 20 business days of the notice. Inspection-related violations are those discovered through inspection of a facility or work performed.

Fines for paperwork violations may not be made, unless written notice was provided within 90 business days of the violation and the violator has not cured the violation within 90 business days of the notice. Paperwork violations are defined as those that involve a failure to meet a filing deadline or a good faith technical error made on a required form.

**State Revenue**

Beginning in FY 2012-13, this bill reduces fine revenue by up to \$2.8 million per year, including \$2.3 million General Fund and \$511,000 cash funds credited to the Water Quality Improvement Fund. The CDPHE collects \$2.3 million per year in fines related to air quality, hazardous materials, and related violations which are credited to the General Fund. The department also collects \$511,000 per year as a result of water violations, which are credited to the Water Quality Improvement Fund.

**State Expenditures**

This bill increases state General Fund expenditures by up to \$2,728,686 in FY 2012-13 and \$2,550,442 in FY 2013-14. Under an agreement with the Environmental Protection Agency (EPA), CDPHE currently enforces violations of EPA standards. Because those standards require the collection of fines and are specified by contract and not in federal law, the fiscal note assumes that this could require up to 37.9 FTE at the Environmental Protection Specialist II level. Costs include personnel, operating, and capital outlay costs. The fiscal note assumes the bill will take effect on June 1, 2012, but due to the General Fund pay date shift, costs will be incurred as of July 1, 2012.

**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 1.

| <b>Table 1. Expenditures Not Included Under HB12-1119*</b>           |                   |                   |
|--|-------------------|-------------------|
| <b>Cost Components</b>   | <b>FY 2012-13</b> | <b>FY 2013-14</b> |
| Employee Insurance (Health, Life, Dental, and Short-term Disability) | \$233,283         | \$233,283         |
| Supplemental Employee Retirement Payments                            | 149,609           | 154,336           |
| <b>TOTAL</b>   | <b>\$382,892</b>  | <b>\$387,619</b>  |

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

**State Appropriations**

For FY 2012-13, the Department of Public Health and Environment requires an increase in appropriations of \$2,728,686 General Fund and 37.9 FTE.

**Departments Contacted**

Public Health and Environment