

  
*Colorado Legislative Council Staff Fiscal Note*  
**STATE**  
**REVISED FISCAL IMPACT**  
(replaces fiscal note dated March 19, 2012)

<b>Drafting Number:</b> LLS 12-0378	<b>Date:</b> April 10, 2012
<b>Prime Sponsor(s):</b> Rep. Coram	<b>Bill Status:</b> House Appropriations
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.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
<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	\$2,232,837	\$2,121,552
<b>FTE Position Change</b>	26.7	26.7
<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 Finance Committee**, this bill limits the ability of the Colorado Department of Public Health and Environment (CDPHE) to impose fines for the first occurrence of an inspection- or paperwork-related violation that does not harm or threaten public health or safety.

The CDPHE may not issue fines for a subsequent 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 subsequent 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. Because the CDPHE does not typically issue fines on the first occurrence of a violation, this analysis assumes no revenue will be lost in the current FY 2011-12.

**State Expenditures**

This bill increases state General Fund expenditures by \$2,232,837 in FY 2012-13 and \$2,121,552 in FY 2013-14 for the CDPHE, as shown in Table 1. 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.

<b>Cost Components</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Personal Services	\$1,771,384	\$1,771,384
FTE	26.7	26.7
Operating Expenses	25,365	25,365
Capital Outlay	125,570	0
Employee Insurance	164,344	164,344
Supplemental Employee Retirement	94,442	108,727
Leased Space	51,732	51,732
<b>TOTAL</b>	<b>\$2,232,837</b>	<b>\$2,121,552</b>

*Personal services, operating costs, and capital outlay.* Under an agreement with the Environmental Protection Agency (EPA), the CDPHE currently enforces violations of EPA standards. Because that agreement requires the cumulative enforcement of standards, including the collection of fines, and is specified by contract and not in federal law, the fiscal note assumes that this could require up to 26.7 FTE.

Personnel will be hired at the Environmental Protection Specialist II level to conduct increased inspections and follow up in compliance with the bill, allocated as 1.3 FTE for the Air Division, 4.0 FTE for the Hazardous Materials Division, and 21.4 FTE in the Water Division.

*Employee insurance, supplemental employee retirement, and leased space.* Due to the increase of 26.7 FTE, per Legislative Council Staff policy, costs for employee insurance, supplemental employee retirement, and leased space are shown as an increase in state expenditures rather than as expenditures not included. Employee insurance costs include health, life, dental, and short-term disability insurances. Supplemental employee retirement costs include amortization equalization disbursement (AED) and supplemental amortization equalization disbursement (SAED) payments made to the Public Employees' Retirement Association.

### **State Appropriations**

For FY 2012-13, the Department of Public Health and Environment requires an increase in appropriations of \$2,232,837 General Fund and an allocation of 26.7 FTE, as follows:

- \$93,596 to the Air Division, including \$86,247 for personal services and \$7,349 for operating costs, and an allocation of 1.3 FTE;
- \$1,540,735 to the Water Division, including \$1,419,761 for personal services and \$120,974 for operating costs, and an allocation of 21.4 FTE;
- \$287,988 to the Hazardous Materials Division, including \$265,376 for personal services and \$22,612 for operating costs, and an allocation of 4.0 FTE;
- \$161,535 for health, life, and dental insurance;
- \$2,809 for short-term disability insurance;
- \$51,732 for leased space;
- \$50,792 for amortization equalization disbursement payments; and
- \$43,650 for supplemental amortization equalization disbursement payments.

### **Departments Contacted**

Public Health and Environment