

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 13-0807

Date: April 8, 2013

Prime Sponsor(s): Sen. Tochtrop
Rep. Peniston

Bill Status: Senate Health and Human Services
Fiscal Analyst: Kerry White (303-866-3469)

TITLE: CONCERNING THE REMEDIATION PERFORMED ON PROPERTY CONTAMINATED BY AN ILLEGAL DRUG LABORATORY.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
General Fund	Potential increase.	Potential increase.
Cash Funds		
Hazardous Waste Service Fund	\$90,000	\$38,000
State Expenditures		
Cash Funds		
Hazardous Waste Service Fund	\$61,491	\$45,201
FTE Position Change	0.6 FTE	0.5 FTE
Effective Date: August 7, 2013, if the General Assembly adjourns on May 8, 2013, as scheduled, and no referendum petition is filed.		
Appropriation Summary for FY 2013-2014: See State Appropriations section.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

This bill creates a process to certify and monitor the activities of professionals involved in the remediation of property contaminated by illegal drug labs. It directs the State Board of Health (board) within the Department of Public Health and Environment (DPHE) to promulgate rules to:

- create procedures for testing contaminated property;
- establish acceptable standards for remediation of illegal drug labs involving methamphetamine;
- establish procedures for a training and certification program for contractors and consultants (remediation professionals) who remediate drug-contaminated property;
- approve persons to provide training to remediation professionals;
- allow remediation professionals to issue certificates of compliance to property owners upon completion of remediation;
- implement a fee structure for the certification and monitoring of remediation professionals and the approval of persons who provide training; and
- determine and assess administrative penalties for violations.

Enforcement. Following the board's actions listed above, the program will be managed by DPHE. If an individual or company violates rules issued by the board, the DPHE may assess an administrative penalty of up to \$15,000 per day. Procedures and time frames for resolving violations, including notifications and judicial review of the DPHE's decisions, are also defined.

Liability. Property owners must furnish the relevant local government with a copy of the certificate of compliance for any remediation work completed, and, in so doing, will obtain immunity from suit. However, a person who is convicted of possession of chemicals, supplies, or equipment with intent to manufacture the illegal drugs is not immune from a suit brought by a current or future property owner, renter, occupant, or neighbor.

Role of local governments. The bill allows, rather than requires, a local government to declare an illegal drug lab that has not met remediation standards a public health nuisance. Authority to charge reasonable inspection and testing fees is repealed.

State Revenue

This bill will increase state cash fund revenue by \$90,000 for FY 2013-14 and \$38,000 for FY 2014-15. Revenue is derived from certification of remediation professionals, which is credited to the Hazardous Waste Service Fund, and the assessment of administrative penalties, which are assumed to be credited to the General Fund.

Certification fees. 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. Table 1 identifies the fee impact resulting from establishing a certification process for professionals involved in the remediation of drug-contaminated properties.

Table 1. Fee Impact on Individuals, Families, or Business under SB13-219					
Type of Fee	Current Fee	Proposed Fee	Fee Change	Number Affected	Total Fee Impact
Abatement Worker	\$0	\$200	\$200	260	\$52,000
Abatement Supervisor	0	500	500	75	37,500
Abatement Firm	0	500	500	37	18,500
Abatement Trainer	0	250	250	50	12,500
Industrial Hygienist Sampler	0	250	250	30	7,500
TOTAL					\$128,000

Fees assume that abatement workers, supervisors, and firms, and industrial hygienist samplers will receive certification every two years. Of the total population, it is assumed that about two-thirds (270 people) will apply for certification in the first year, and one-third (132 people) will apply in the second year. Abatement trainers (50 people) will be certified every four years, with all applications occurring in the first year.

Administrative penalties. The bill authorizes DPHE to levy administrative penalties of up to \$15,000 per day for individuals or companies that violate the board's rules. Penalty revenue is anticipated to be minimal. As the bill is silent on where such penalties are to be deposited, the fiscal note assumes this revenue will be credited to the General Fund.

State Expenditures

This bill increases state cash fund expenditures by \$61,491 and 0.6 FTE for FY 2013-14 and \$45,201 and 0.5 FTE for FY 2014-15. Costs are paid from the Hazardous Waste Service Fund in the DPHE. Table 2 and the discussion that follows describe the cost components of the bill.

Table 2. Expenditures Under SB13-219		
Cost Components	FY 2013-14	FY 2014-15
Personal Services	\$39,363	\$39,363
FTE	0.6*	0.5
Operating Expenses and Capital Outlay	5,178	475
Legal Services	15,450	3,863
Program Materials	1,500	1,500
TOTAL	\$61,491	\$45,201

**Of this amount, 0.5 FTE is for the DPHE and 0.1 FTE is allocated to the Department of Law for the legal services cost identified in FY 2013-14.*

Personal services, operating expenses, and capital outlay. A total of 0.5 FTE at a cost of \$39,363 per year is required for the DPHE to develop and implement the certification program. Standard operating costs are prorated to \$475 per year, and the first year includes capital outlay costs of \$4,703. In addition, program material costs are \$1,500 per year to create photo identification cards, prepare certificates, and conduct mailings.

Legal services. The fiscal note assumes 200 hours of legal services from the Department of Law are required in the first year to promulgate rules. In the second and future fiscal years, costs are based on 50 hours of legal services to review and update rules as needed. Legal services are calculated at \$77.25 per hour. In accordance with common policies and based on the number of required hours, the Department of Law is allocated 0.1 FTE in the first fiscal year.

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 3.

Table 3. Expenditures Not Included Under SB13-219*		
Cost Components	FY 2013-14	FY 2014-15
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$3,379	\$3,379
Supplemental Employee Retirement Payments	2,416	2,734
Indirect Costs	12,956	9,832
TOTAL	\$18,751	\$15,945

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

Local Government Impact

This bill may reduce workload for local governments by a minimal amount. The bill eliminates a requirement under current law to deem contaminated properties a public nuisance and reduces the authority of a local government to charge reasonable inspection and testing fees. As of this writing, it is believed that local governments are not currently charging fees for inspections and testing of contaminated property and, therefore, the fiscal note assumes no fiscal impact. However, to the extent that any local governments are performing inspections and tests, this analysis assumes that this would no longer occur under SB13-219, and therefore, fees and workload would be reduced accordingly.

State Appropriations

For FY 2013-14, the Department of Public Health and Environment requires an appropriation of \$61,491 from the Hazardous Waste Service Fund and 0.5 FTE. Of this amount, \$15,450 should be reappropriated to the Department of Law. The Department of Law also requires 0.1 FTE.

Departments Contacted

- Counties
- Local Affairs
- Public Health and Environment
- Judicial
- Municipalities