

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 16-0920.03 Thomas Morris x4218

HOUSE BILL 16-1413

HOUSE SPONSORSHIP

Rankin, Hamner, Young

SENATE SPONSORSHIP

Grantham, Lambert, Steadman

House Committees
Appropriations

Senate Committees
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE FINANCING OF THE WATER POLLUTION CONTROL**
102 **PROGRAM, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)

Joint Budget Committee. Currently, the water pollution control statute categorizes the various sources that pay fees pursuant to the statute within different sectors, specifies the amount of each fee that the subcategories within each sector pay, and credits all fees from all sectors to the water quality control fund. **Section 1** of the bill repeals this fund,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
2nd Reading Unamended
April 6, 2016

HOUSE
3rd Reading Unamended
April 1, 2016

HOUSE
2nd Reading Unamended
March 31, 2016

creates a separate cash fund for each of the sectors (commerce and industry; construction; pesticides; municipal separate storm sewer system; public and private utilities; and water quality certifications), and allocates the fees from each sector to that sector's cash fund. If the money derived from a particular sector is inadequate to cover the direct and indirect costs of the department of public health and environment in administering that sector, the general assembly may appropriate money from any of the funds for the department's direct and indirect costs in administering that sector. The department will conduct a stakeholder process regarding the appropriate and necessary fees that each subcategory of each sector should pay to enable each sector to be adequately funded by fees collected from that sector, and the department will then submit a legislative proposal to the joint budget committee by November 1, 2016, concerning its conclusions regarding the fees. The department must annually report to the joint budget committee, accounting separately for its expenditures by fund source and revenues by fund and sector source.

Section 2 directs the state treasurer to transfer \$1,208,007 of the excess uncommitted reserve of the water quality improvement fund to the general fund on July 1, 2016.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 25-8-502, **amend**
3 (1.1) (e) introductory portion, (1.2) (a) introductory portion, (1.5) (a),
4 (1.5) (b), and (1.7); **repeal** (1.1) (e) (XIII) and (1.1) (e) (XIV); and **add**
5 (1.1) (f) as follows:

6 **25-8-502. Application - definitions - fees - funds created -**
7 **public participation - repeal.** (1.1) For each regulated activity listed in
8 this subsection (1.1), the division may assess an annual permit fee and a
9 nonrefundable permit application fee for new permits that must equal fifty
10 percent of the annual permit fee. The full amount of the application fee
11 is credited toward the annual permit fee. All such fees must be in
12 accordance with the following schedules:

13 (e) The public and private utilities sector includes annual fee
14 schedules for regulated activities associated with the operation of

1 domestic wastewater treatment works, water treatment facilities,
 2 reclaimed water systems, ~~municipal separate storm sewer systems~~, and
 3 industrial operations that discharge to a domestic wastewater treatment
 4 works as follows:

5 **Facility Categories and Subcategories for**
 6 **Permit Fees within the Public and**

Private Utilities Sector	Annual Fees
(XIII) MS4 general permits:	
(A) Storm water municipal for a population of 10,000 or fewer	\$ 355
(B) Storm water municipal for a population from 10,000 up to 49,999	\$ 810
(C) Storm water municipal for a population from 50,000 up to 100,000	\$ 2,020
(D) Storm water municipal for a population of 100,000 or more	\$ 4,050
(XIV) MS4 individual permits:	
(A) Municipalities with a population from 10,000 up to 49,999	\$ 1,245
(B) Municipalities with a population from 50,000 up to 99,999	\$ 3,110
(C) Municipalities with a population from 100,000 up to 249,999	\$ 6,225
(D) Municipalities with a population of 250,000 or more	\$10,580
(E) Statewide permit for municipal separate storm-water systems, owned or	

1 operated by the department of
 2 transportation, in municipal areas
 3 where storm water permits are required \$ 4,360

4 (f) THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS SECTOR
 5 INCLUDES ANNUAL FEES FOR REGULATED ACTIVITIES ASSOCIATED WITH
 6 THE OPERATION OF MUNICIPAL SEPARATE STORM SEWER SYSTEMS, AS
 7 FOLLOWS:

8 **Facility Categories and Subcategories for**
 9 **Permit Fees within the Municipal Separate**

10 Storm Sewer System Sector	11 Annual Fees
12 (I) MS4 GENERAL PERMITS:	
13 (A) STORM WATER MUNICIPAL FOR A POPULATION	
14 OF 10,000 OR FEWER	\$ 355
15 (B) STORM WATER MUNICIPAL FOR A POPULATION	
16 FROM 10,000 UP TO 49,999	\$ 810
17 (C) STORM WATER MUNICIPAL FOR A POPULATION	
18 FROM 50,000 UP TO 99,999	\$ 2,020
19 (D) STORM WATER MUNICIPAL FOR A POPULATION	
20 OF 100,000 OR MORE	\$ 4,050
21 (II) MS4 INDIVIDUAL PERMITS:	
22 (A) MUNICIPALITIES WITH A POPULATION FROM	
23 10,000 UP TO 49,999	\$ 1,245
24 (B) MUNICIPALITIES WITH A POPULATION FROM	
25 50,000 UP TO 99,999	\$ 3,110
26 (C) MUNICIPALITIES WITH A POPULATION FROM	
27 100,000 UP TO 249,999	\$ 6,225
28 (D) MUNICIPALITIES WITH A POPULATION OF	

1 250,000 OR MORE \$10,580

2 (E) STATEWIDE PERMIT FOR MUNICIPAL SEPARATE
3 STORM WATER SYSTEMS, OWNED OR
4 OPERATED BY THE DEPARTMENT OF
5 TRANSPORTATION, IN MUNICIPAL AREAS
6 WHERE STORM WATER PERMITS ARE REQUIRED \$ 4,360

7 (1.2) (a) For the activities listed in this subsection (1.2) associated
8 with reviewing requests for certifications under section 401 of the federal
9 act and this article, known as "401 certificates", the division may assess
10 a fee for the review. ~~And~~ THERE IS HEREBY CREATED IN THE STATE
11 TREASURY THE WATER QUALITY CERTIFICATION SECTOR FUND, WHICH
12 CONSISTS OF FEES COLLECTED PURSUANT TO THIS SUBSECTION (1.2). THE
13 DIVISION SHALL TRANSMIT THE FEES TO THE STATE TREASURER, WHO
14 SHALL CREDIT THEM TO THE WATER QUALITY CERTIFICATION SECTOR
15 FUND. All such fees must be in accordance with the following schedules:

16 (1.5) (a) (I) There is hereby created in the state treasury the ~~water~~
17 ~~quality control~~ COMMERCE AND INDUSTRY SECTOR fund, which consists
18 of all annual fees ~~collected~~ for regulated activities associated with the
19 commerce and industry sector ~~construction sector, pesticide application~~
20 ~~sector, and public and private utilities sector~~ COLLECTED pursuant to
21 subsection (1.1) of this section; all fees for services performed by the
22 division associated with the commerce and industry sector ~~construction~~
23 ~~sector, pesticide application sector, and public and private utilities sector~~
24 ~~in~~ COLLECTED PURSUANT TO subsection (1.3) of this section; ~~all fees~~
25 ~~collected for activities associated with 401 certificates in subsection (1.2)~~
26 ~~of this section;~~ and all interim fees ~~in~~ ASSOCIATED WITH THE COMMERCE
27 AND INDUSTRY SECTOR COLLECTED PURSUANT TO subsection (1.4) of this

1 section. The division shall transmit the fees to the state treasurer, who
2 shall credit them to the ~~water quality control~~ COMMERCE AND INDUSTRY
3 SECTOR fund.

4 (II) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
5 CONSTRUCTION SECTOR FUND, WHICH CONSISTS OF ALL ANNUAL FEES
6 COLLECTED FOR REGULATED ACTIVITIES ASSOCIATED WITH THE
7 CONSTRUCTION SECTOR PURSUANT TO SUBSECTION (1.1) OF THIS SECTION;
8 ALL FEES FOR SERVICES PERFORMED BY THE DIVISION ASSOCIATED WITH
9 THE CONSTRUCTION SECTOR COLLECTED PURSUANT TO SUBSECTION (1.3)
10 OF THIS SECTION; AND ALL INTERIM FEES ASSOCIATED WITH THE
11 CONSTRUCTION SECTOR COLLECTED PURSUANT TO SUBSECTION (1.4) OF
12 THIS SECTION. THE DIVISION SHALL TRANSMIT THE FEES TO THE STATE
13 TREASURER, WHO SHALL CREDIT THEM TO THE CONSTRUCTION SECTOR
14 FUND.

15 (III) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
16 PESTICIDES SECTOR FUND, WHICH CONSISTS OF ALL ANNUAL FEES
17 COLLECTED FOR REGULATED ACTIVITIES ASSOCIATED WITH THE PESTICIDES
18 SECTOR PURSUANT TO SUBSECTION (1.1) OF THIS SECTION; ALL FEES FOR
19 SERVICES PERFORMED BY THE DIVISION ASSOCIATED WITH THE PESTICIDES
20 SECTOR COLLECTED PURSUANT TO SUBSECTION (1.3) OF THIS SECTION;
21 AND ALL INTERIM FEES ASSOCIATED WITH THE PESTICIDES SECTOR
22 COLLECTED PURSUANT TO SUBSECTION (1.4) OF THIS SECTION. THE
23 DIVISION SHALL TRANSMIT THE FEES TO THE STATE TREASURER, WHO
24 SHALL CREDIT THEM TO THE PESTICIDES SECTOR FUND.

25 (IV) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
26 MUNICIPAL SEPARATE STORM SEWER SYSTEM SECTOR FUND, WHICH
27 CONSISTS OF ALL ANNUAL FEES COLLECTED FOR REGULATED ACTIVITIES

1 ASSOCIATED WITH THE MUNICIPAL SEPARATE STORM SEWER SYSTEM
2 SECTOR PURSUANT TO SUBSECTION (1.1) OF THIS SECTION; ALL FEES FOR
3 SERVICES PERFORMED BY THE DIVISION ASSOCIATED WITH THE MUNICIPAL
4 SEPARATE STORM SEWER SYSTEM SECTOR COLLECTED PURSUANT TO
5 SUBSECTION (1.3) OF THIS SECTION; AND ALL INTERIM FEES ASSOCIATED
6 WITH THE MUNICIPAL SEPARATE STORM SEWER SYSTEM SECTOR
7 COLLECTED PURSUANT TO SUBSECTION (1.4) OF THIS SECTION. THE
8 DIVISION SHALL TRANSMIT THE FEES TO THE STATE TREASURER, WHO
9 SHALL CREDIT THEM TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM
10 SECTOR FUND.

11 (V) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
12 PUBLIC AND PRIVATE UTILITIES SECTOR FUND, WHICH CONSISTS OF ALL
13 ANNUAL FEES COLLECTED FOR REGULATED ACTIVITIES ASSOCIATED WITH
14 THE PUBLIC AND PRIVATE UTILITIES SECTOR PURSUANT TO SUBSECTION
15 (1.1) OF THIS SECTION; ALL FEES FOR SERVICES PERFORMED BY THE
16 DIVISION ASSOCIATED WITH THE PUBLIC AND PRIVATE UTILITIES SECTOR
17 COLLECTED PURSUANT TO SUBSECTION (1.3) OF THIS SECTION; AND ALL
18 INTERIM FEES ASSOCIATED WITH THE PUBLIC AND PRIVATE UTILITIES
19 SECTOR COLLECTED PURSUANT TO SUBSECTION (1.4) OF THIS SECTION. THE
20 DIVISION SHALL TRANSMIT THE FEES TO THE STATE TREASURER, WHO
21 SHALL CREDIT THEM TO THE PUBLIC AND PRIVATE UTILITIES SECTOR FUND.

22 (b) (I) The general assembly shall annually appropriate the
23 ~~moneys~~ MONEY in the ~~water quality control fund~~ FUNDS CREATED IN
24 PARAGRAPH (a) OF THIS SUBSECTION (1.5) AND IN SUBSECTION (1.2) OF
25 THIS SECTION TO the department of public health and environment FOR ITS
26 DIRECT AND INDIRECT COSTS IN ADMINISTERING THE APPROPRIATE
27 SECTOR. ~~which~~ THE DEPARTMENT shall review expenditures of ~~such~~

1 ~~moneys~~ THE MONEY to ensure that ~~they are~~ IT IS used only to fund the
2 expenses of the discharge permit system and other activities included in
3 subsections (1.1), (1.2), (1.3), and (1.4) of this section AND THAT, EXCEPT
4 AS SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b):

5 (A) MONEY DERIVED FROM A PARTICULAR SECTOR IS USED ONLY
6 FOR THAT SECTOR; AND

7 (B) MONEY DERIVED FROM SUBSECTION (1.2) OF THIS SECTION IS
8 USED ONLY TO PROVIDE WATER QUALITY CERTIFICATIONS.

9 (II) (A) IF THE MONEY DERIVED FROM A PARTICULAR SECTOR IS
10 INADEQUATE TO COVER THE DEPARTMENT'S DIRECT AND INDIRECT COSTS
11 IN ADMINISTERING THAT SECTOR, THE GENERAL ASSEMBLY MAY, DURING
12 FISCAL YEARS 2016-17 AND 2017-18, APPROPRIATE MONEY FROM ANY OF
13 THE FUNDS CREATED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5) AND IN
14 SUBSECTION (1.2) OF THIS SECTION FOR THE DEPARTMENT'S DIRECT AND
15 INDIRECT COSTS IN ADMINISTERING THAT SECTOR.

16 (B) DURING THE 2016 INTERIM, THE DEPARTMENT SHALL CONDUCT
17 A STAKEHOLDER PROCESS REGARDING THE APPROPRIATE AND NECESSARY
18 FEES THAT EACH SUBCATEGORY OF EACH SECTOR SHOULD PAY TO ENABLE
19 EACH SECTOR TO BE ADEQUATELY FUNDED BY FEES COLLECTED FROM
20 THAT SECTOR. THE DEPARTMENT SHALL SUBMIT A LEGISLATIVE PROPOSAL
21 TO THE JOINT BUDGET COMMITTEE BY NOVEMBER 1, 2016, CONCERNING
22 ITS CONCLUSIONS REGARDING THE FEES.

23 (C) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE SEPTEMBER
24 1, 2018.

25 (III) All interest earned on the investment or deposit of ~~moneys~~
26 MONEY in ~~the~~ EACH fund and all unencumbered or unappropriated
27 balances in ~~the~~ EACH fund remain in ~~the~~ EACH INDIVIDUAL fund, shall be

1 appropriated only for the expenses of the discharge permit system, and
2 shall not be transferred or revert to the general fund or any other fund at
3 the end of any fiscal year or any other time.

4 (1.7) (a) Commencing in 2016, the department of public health
5 and environment shall report annually to:

6 ~~(a)~~ (I) The senate agriculture and natural resources committee and
7 the house of representatives agriculture, livestock, and natural resources
8 committee, or their successor committees, on the environmental
9 agriculture program. The report must include the number of permits
10 processed, the number of inspections conducted, the number of
11 enforcement actions taken, and the costs associated with all program
12 activities during the preceding year. The department shall submit the
13 report on or before March 31 of each year; AND

14 ~~(b)~~ (II) The joint budget committee BY NOVEMBER 1 OF EACH
15 YEAR regarding the fee revenue received from each sector specified in
16 ~~subsection (1.1)~~ SUBSECTIONS (1.1), (1.2), AND (1.3) of this section,
17 INCLUDING EXPENDITURES BY FUND SOURCE AND REVENUES BY FUND AND
18 SECTOR SOURCE BASED ON THE NOVEMBER 1 REQUEST.

19 (b) THE REPORTING REQUIRED BY THIS SECTION IS EXEMPT FROM
20 SECTION 24-1-136, C.R.S.

21 **SECTION 2.** In Colorado Revised Statutes, 25-8-608, **add** (4) as
22 follows:

23 **25-8-608. Civil penalties - rules - fund created - temporary**
24 **moratorium on penalties for minor violations - definitions - repeal.**

25 (4) (a) ON JULY 1, 2016, THE STATE TREASURER SHALL TRANSFER ONE
26 MILLION TWO HUNDRED EIGHT THOUSAND SEVEN DOLLARS OF THE EXCESS
27 UNCOMMITTED RESERVE OF THE WATER QUALITY IMPROVEMENT FUND TO

1 THE GENERAL FUND.

2 (b) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE SEPTEMBER 1,
3 2017.

4 **SECTION 3. Appropriation.** (1) For the 2016-17 state fiscal
5 year, \$1,208,007 is appropriated to the department of public health and
6 environment for use by the water quality control division. This
7 appropriation is from the general fund. To implement this act, the division
8 may use this appropriation as follows:

9 (a) \$362,402 for the commerce and industry sector;

10 (b) \$60,400 for the municipal separate storm sewer system sector;

11 and

12 (c) \$785,205 for the public and private utilities sector.

13 **SECTION 4. Effective date.** This act takes effect July 1, 2016.

14 **SECTION 5. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.