



Legislative
Council Staff

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FISCAL NOTE

Drafting Number:	LLS 19-1045	Date:	April 10, 2019
Prime Sponsors:	Rep. Exum; Landgraf Sen. Lee; Hisey	Bill Status:	House Energy & Environment
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Bill Topic: PROTECT PUBLIC HEALTH FIREFIGHTER SAFETY REGULATE PFAS

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill prohibits the use of class B firefighting foam that contains intentionally added perfluoroalkyl and polyfluoroalkyl (PFAS) substances for training purposes and includes civil penalties. It requires the Department of Public Health and Environment to survey fire departments about issues related to PFAS foam. It increases state revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2019-20, the bill requires a General Fund appropriation of \$55,278 to the Department of Public Health and Environment.

Fiscal Note Status: The fiscal note reflects the introduced bill.

**Table 1
State Fiscal Impacts Under HB 19-1279**

		FY 2019-20	FY 2020-21
Revenue		-	-
Expenditures	General Fund	\$55,278	-
	Centrally Appropriated	\$22,337	-
	Total	\$77,615	-
	Total FTE	0.7 FTE	-
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

The bill creates the Firefighting Foams Control Act which prohibits the use of class B firefighting foam that contains intentionally added perfluoroalkyl and polyfluoroalkyl substances (PFAS foam) for training purposes. A person or fire department that administers a training program that violates this prohibition is subject to a civil penalty of up to \$5,000, for a first offense and up to \$10,000 for each repeat offense. Penalties are deposited into the Local Firefighter Safety and Disease Prevention Fund.

The Department of Public Health and Environment (CDPHE) is required to survey fire departments every three years about issues related to PFAS foam and to compile and present the survey results to the General Assembly by January 1, 2020.

Beginning August 2, 2019, purchasers of firefighting personal protective equipment that contains intentionally added PFAS chemicals, must be notified in writing by the manufacturer or distributor about the chemical additive and the reason for the addition. Beginning August 2, 2021, a manufacturer of Class B firefighting foam, may not sell or distribute Class B firefighting foam to which PFAS has been added, and must notify its distributors in writing about the prohibition no later than August 2, 2020. The CDPHE may request a certificate of compliance from a manufacturer of Class B firefighting foam or protective equipment attesting that the manufacturer's products meet the requirements under the bill. The same civil penalties noted above also apply to manufacturers.

State Revenue

This bill may increase revenue to the Local Firefighter Safety and Disease Prevention Fund in the Department of Public Safety from civil penalties paid by individuals, fire departments, and manufacturers that violate the provisions of the bill. However, the bill does not explicitly identify the enforcement authority (see technical note). This revenue is subject to TABOR; however, under the March 2019 Legislative Council Staff forecast, a TABOR surplus is not expected in FY 2019-20 or FY 2020-21.

State Expenditures

This bill will increase General Fund expenditures by \$77,615 and 0.7 FTE in FY 2019-20 for the CDPHE. The bill will have similar costs every three years thereafter to conduct the survey of fire departments. These costs are shown in Table 2 and explained below.

**Table 2
Expenditures Under HB 19-1279**

	FY 2019-20	FY 2020-21
Department of Public Health and Environment		
Personal Services	\$49,910	-
Operating Expenses and Capital Outlay Costs	\$5,368	-
Centrally Appropriated Costs*	\$22,337	-
Total Cost	\$77,615	-
Total FTE	0.7 FTE	-

* Centrally appropriated costs are not included in the bill's appropriation.

Water Quality Control Division, CDPHE. The division requires 0.7 FTE in FY 2019-20 to create the survey, distribute it to approximately 165 fire departments, compile and map the data, and develop the reports. This FTE will be required again in FY 2022-23 and every three years thereafter.

Department of Public Safety. To the extent additional civil penalties are deposited in the Local Firefighter Safety and Disease Prevention Fund, the department will use the funds for need-based grants to governing bodies and volunteer fire departments to increase firefighter safety and prevent occupational diseases.

Centrally appropriated costs. 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. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$22,201 in FY 2019-20 only.

Local Government and Special District Impact

The bill will increase workload for fire departments and local governments to respond to the survey every three years and to ensure that they do not use PFAS form for training purposes.

Technical Note

While the bill provides for civil penalties in the Products Control and Safety statute administered by CDPHE, it does not include clear enforcement authority for the CDPHE to levy penalties.

Effective Date

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2019-20, the bill requires a General Fund appropriation of \$55,278 and 0.7 FTE to the Department of Public Health and Environment.

State and Local Government Contacts

Counties
Municipalities
Public Health and Environment
Special Districts

Fire Chiefs
Natural Resources
Public Safety