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FISCAL NOTE

Drafting Number: LLS 19-0936 Date: April 1, 2019
Prime Sponsors: Sen. Donovan; Coram Bill Status: Senate Agriculture
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Bill Topic: EXPAND AG CHEMICAL MGMT PROG PROTECT SURFACE WATER

- Summary of Fiscal Impact:
[x] State Revenue [ ] TABOR Refund
[x] State Expenditure [ ] Local Government
[ ] State Transfer [ ] Statutory Public Entity

This bill expands the Commissioner of Agriculture's responsibility to prevent or remedy the introduction of agricultural chemicals into groundwater to include protection of all state waters. The bill increases state revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2019-20, the bill requires an appropriation of \$239,592 to the Department of Agriculture.

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

Table 1
State Fiscal Impacts Under SB 19-186

Table with 4 columns: Category, Sub-category, FY 2019-20, FY 2020-21. Rows include Revenue (Cash Funds, Total), Expenditures (Cash Funds, Centrally Appropriated, Total), Total FTE, Transfers, and TABOR Refund.

**Summary of Legislation**

Under current law, the Commissioner of Agriculture is responsible for preventing or remedying the introduction of agricultural chemicals into groundwater through the use of best management practices and agricultural management plans. The Water Quality Control Division in the Colorado Department of Public Health and Environment (CDPHE) and Colorado Cooperative Extension Service at Colorado State University (CSU) consult with the commissioner in adopting these practices and plans. By changing the term groundwater to state waters, the bill expands the commissioner's responsibility to include surface water.

**Background**

The Water Quality Control Commission (WQCC) passed Regulation 85 in 2012 to reduce nutrient pollution in waterways through more stringent regulation of point source nutrient dischargers, such as wastewater treatment plants, industries, and factories that discharge wastewater directly into waterways. Regulation 85 set a 2022 deadline to evaluate the effectiveness of voluntary action to reduce nutrient pollution for nonpoint sources, which includes agriculture. The WQCC will assess the contribution of nonpoint sources to nutrient pollution and determine whether additional regulation is indicated in 2022.

**State Revenue**

This bill will increase cash fund revenue by \$420,000 in FY 2019-20, and \$770,000 in FY 2020-21 to the Plant Health, Pest Control, and Environmental Protection Cash Fund in the Department of Agriculture (CDA). The fee increase will cover the increased cost of the bill. This fee 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.

**Fee impact on pesticide and fertilizer products.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee increase amounts are estimates only, actual fees will be set administratively by the CDA based on cash fund balance, estimated program costs, and the estimated number of products subject to the fee. The pesticide product registration fee will be collected in FY 2019-2020 and FY 2020-21, while the tonnage fee is collected in arrears by calendar year so will not be collected until FY 2020-21. Table 2 below identifies the impact of the fee increase under this bill.

**Table 2  
Fee Impact on Pesticide and Fertilizer Products**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Current Fee</b>	<b>Proposed Fee</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
FY 2019-20	Pesticide product registration	\$165	\$195	14,000	\$420,000
	Fertilizer tonnage	-	-	-	-
<b>FY 2019-20 Total</b>					<b>\$420,000</b>
FY 2020-21	Pesticide product registration	\$165	\$195	14,000	\$420,000
	Fertilizer tonnage	\$0.60 per ton	\$1.10 per ton	700,000	\$350,000
<b>FY 2020-21 Total</b>					<b>\$770,000</b>

**State Expenditures**

This bill increases expenditures by \$260,676 and 0.8 FTE in FY 2019-20, and \$685,724 and 2.6 FTE in FY 2020-21 from the Plant Health, Pest Control, and Environmental Protection Cash Fund. These costs are shown in Table 3 and explained below.

**Table 3  
 Expenditures Under SB 19-186**

<b>Cost Components</b>	<b>FY 2019-20</b>	<b>FY 2020-21</b>
<b>Department of Agriculture</b>		
Personal Services	\$49,636	\$162,393
CDA Operating Expenses and Capital Outlay	\$17,273	\$26,603
CSU Staff Contract	\$112,000	\$186,667
CSU Program Operating	\$37,208	\$62,013
CDA Laboratory Operating	-	\$125,000
Vehicle and Mileage	\$1,600	\$5,400
Centrally Appropriated Costs*	\$21,084	\$62,119
FTE – Personal Services	0.6 FTE	2.0 FTE
<b>CDA (Subtotal)</b>	<b>\$238,801</b>	<b>\$630,195</b>
<b>Department of Public Health and Environment</b>		
Personal Services	\$13,226	\$43,286
Operating Expenses and Capital Outlay Costs	\$4,703	\$570
Centrally Appropriated Costs (included in appropriation)	\$3,946	\$11,673
FTE – Personal Services	0.2 FTE	0.6 FTE
<b>CDPHE (Subtotal)</b>	<b>\$21,875</b>	<b>\$55,529</b>
<b>Total</b>	<b>\$260,676</b>	<b>\$685,724</b>
<b>Total FTE</b>	<b>0.8 FTE</b>	<b>2.6 FTE</b>

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

**Colorado Department of Agriculture.** The CDA will expand its agricultural chemicals and groundwater protection program to include the protection of surface water quality. The CDA will add a physical scientist IV in FY 2019-20 to design and implement the surface water monitoring program, collect surface water samples, log and analyze data, and prepare reports. In FY 2020-21, the CDA will add a physical scientist II to analyze samples, maintain lab equipment, and develop the best methods for agricultural chemical analysis. Costs include \$125,000 in FY 2020-21 and thereafter for lab supplies for collecting and testing 250 samples per year. Staff will require a vehicle for \$1,000 in FY 2019-20 and \$3,000 in FY 2020-21 with costs to be reappropriated to the Department of Personnel and Administration.

*Colorado State University.* The CDA will contract with Colorado State University(CSU) for a water quality research associate III to assist in the design and implementation of the surface water monitoring program, collect and analyze data, and evaluate the effectiveness of best management practices. The CDA will also contract for a water quality outreach specialist to develop educational materials, conduct outreach activities, and assist with research. Costs for CSU include travel, water sampling supplies, analytical fees for water and soil samples, and a unmanned aerial vehicle (drone) for enhanced data collection and monitoring.

**Department of Public Health and Environment.** The CDPHE will add 0.2 FTE physical scientist II in FY 2019-20 increasing to 0.6 FTE in FY 2020-21 who will assist the CDA in developing an agricultural surface water sampling plan and evaluating the effectiveness of best management practices. Funding for CDPHE will be reappropriated from the Plant Health, Pest Control, and Environmental Protection Cash Fund and will include centrally appropriated costs.

**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 \$21,084 in FY 2019-20 and \$62,119 in FY 2020-21 for CDA. Centrally appropriated costs for CDPHE will be included in the funds reappropriated to the CDPHE.

### **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 an appropriation of:

- \$239,592 to the Department of Agriculture and an allocation of 0.6 FTE from the Plant Health, Pest Control, and Environmental Protection Cash Fund: Of this amount:
  - " \$21,875 and 0.2 FTE is reappropriated the Department of Public Health and Environment;  
and
  - " \$1,000 is reappropriated to the Department of Personnel and Administration.

### **State and Local Government Contacts**

Agriculture	Information Technology
Natural Resources	Public Health and Environment