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FISCAL NOTE

Drafting Number: LLS 20-0717	Date: January 31, 2020
Prime Sponsors: Rep. Exum; Landgraf Sen. Hisey; Lee	Bill Status: House Energy & Environment
	Fiscal Analyst: Clare Pramuk 303-866-2677 clare.pramuk@state.co.us

Bill Topic: STATE GOVERNMENT REGULATION OF PFAS

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" 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

This bill requires the Solid and Hazardous Waste Commission in the Department of Public Health and Environment to establish a certificate of registration for any facility or fire department that possess perfluoroalkyl and polyfluoroalkyl substances. It also gives authority to the department to establish standards for drinking water, surface water, and groundwater. This will increase state revenue and expenditures on an ongoing basis.

Appropriation Summary: The bill requires an appropriation of \$43,836 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 20-1119**

		FY 2020-21	FY 2021-22
Revenue	Cash Funds	\$63,600	\$63,600
	Total	\$63,600	\$63,600
Expenditures	Cash Funds	\$43,836	\$37,636
	Centrally Appropriated	\$18,815	\$17,544
	Total	\$62,651	\$55,180
	Total FTE	0.5 FTE	0.5 FTE
Transfers		-	-
TABOR Refund	General Fund	\$63,600	\$63,600

Summary of Legislation

This bill requires the Solid and Hazardous Waste Commission (commission) in the Department of Public Health and Environment (CDPHE) to establish a certificate of registration for any facility or fire department that possess perfluoroalkyl and polyfluoroalkyl substances (PFAS). The commission will promulgate rules establishing standards for capture and disposal of PFAS and set penalties for not obtaining a certificate of registration or following standards. All facilities or fire departments that possess PFAS must register by June 1, 2021, or within six months of obtaining PFAS. To obtain the certificate of registration, a facility or fire department must prove that it follows the standards set by the commission.

The commission has authority to adopt standards and regulations for PFAS in surface water and groundwater and may require wastewater systems to collect PFAS data. The CDPHE may require public drinking water systems to sample drinking water supply sources and finished drinking water for PFAS.

Finally, the bill establishes requirements for receiving an exemption to the restrictions for use of firefighting foam containing PFAS for training purposes. Testing at a structure used for storage or maintenance of aircraft is exempt from restrictions if the structure is located at a Colorado airport that:

- has been certified by the Federal Aviation Administration;
- serves at least 20 million passengers per year;
- has adequate containment and disposal systems; and
- the testing follows standards listed in the bill.

Background

PFAS are synthetic chemicals that were developed in the early 1900s to coat products to make them heat-, water-, and oil-resistant. They have become prevalent in a variety of products used around the world, including: nonstick cookware, water-repellent clothing, stain-resistant fabrics, and firefighting foams. According to the Environmental Protection Agency (EPA), there are over 4,000 different types of PFAS that have been manufactured in the last 70 years.

Assumptions

Based on survey data that CDPHE collected under House Bill 19-1279, the fiscal note assumes there are 230 facilities that have PFAS on-site, and the fiscal note assumes that this number will remain static.

State Revenue

This bill increases revenue from fees on facilities that possess PFAS by \$63,600 in FY 2020-21 and FY 2021-22 to the Hazardous Waste Service Fund. Additional revenue may be generated from penalties for noncompliance with the provisions of the bill, but these will be set by rule and are not included in the fiscal note.

Fee impact on facilities. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by the CDPHE based on cash fund balance, estimated program costs, and the estimated number of certificates of registration subject to the fee. Table 2 below identifies the fee impact of this bill.

**Table 2
Fee Impact of HB20-1119**

Fiscal Year	Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2020-21	Tier I Certificate of Registration	\$3,000	14	\$42,000
	Tier II Certificate of Registration	\$100	216	\$21,600
FY 2020-21 Total				\$63,600
FY 2021-22	Tier I Certificate of Registration	\$3,000	14	\$42,000
	Tier II Certificate of Registration	\$100	216	\$21,600
FY 2021-22 Total				\$63,600

Tier I facilities are airports and require a higher level of inspection. Tier II facilities are smaller and include fire stations, race tracks, and ski resorts. The fees will fund the administration of the certificates of registration.

State Expenditures

This bill will increase expenditures for CDPHE by \$62,651 and 0.5 FTE in FY 2020-21, and by \$55,180 and 0.5 FTE in FY2021-22. These costs are shown in Table 3 and explained below.

**Table 3
Expenditures Under HB 20-1119**

	FY 2020-21	FY 2021-22
Department of Public Health and Environment		
Personal Services	\$36,961	\$36,961
Operating Expenses	\$675	\$675
Capital Outlay Costs	\$6,200	-
Legal Services	-	-
Centrally Appropriated Costs*	\$18,815	\$17,544
Total Cost	\$62,651	\$55,180
Total FTE	0.5 FTE	0.5 FTE

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

The Solid and Hazardous Waste Commission will promulgate rules and begin the process of verifying that facilities are eligible to receive a certificate of registration in FY 2020-21. The CDPHE will add 0.5 FTE of an environmental protection specialist to conduct inspections and process applications for certificates of registration.

If the CDPHE chooses to establish requirements for drinking water, surface water, and groundwater related to PFAS, costs for staffing and legal services will increase. The fiscal note assumes that the CDPHE will request additional funding through the annual budget process to implement such a regulatory structure.

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 \$18,815 in FY 2020-21 and \$17,544 in FY 2021-22.

TABOR refund. The bill is expected to increase state General Fund obligations for TABOR refunds by \$63,600 in FY 2020-21 and FY 2021-22. Under current law and the December 2019 Legislative Council Staff forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022, respectively. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

Local Government

Local government facilities with PFAS on-site will be required to obtain certificates of registration and pay the associated fees.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2020-21, the bill requires an appropriation of \$43,836 and 0.5 FTE from the Hazardous Waste Service Fund to the Department of Public Health and Environment.

State and Local Government Contacts

Fire Chiefs
Law
Public Safety

Information Technology
Public Health and Environment