



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

SB 20-008

FINAL FISCAL NOTE

| | | | |
|-------------------------|--|------------------------|---|
| Drafting Number: | LLS 20-0598 | Date: | July 14, 2020 |
| Prime Sponsors: | Sen. Winter; Foote Rep. Jackson; Hooton | Bill Status: | Postponed Indefinitely |
| | | Fiscal Analyst: | Erin Reynolds 303-866-4146 Erin.Reynolds@state.co.us |

Bill Topic: **ENHANCE PENALTIES WATER QUALITY CRIMINAL VIOLATIONS**

| | | |
|--------------------------------------|---|--|
| 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 |

This bill would have increased criminal penalties for the pollution of state waters and given jurisdiction in those matters to district attorneys and the Attorney General upon complaint. The bill may have increased state and local revenue and expenditures beginning in FY 2020-21.

**Appropriation
Summary:** No appropriation was required.

**Fiscal Note
Status:** The fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect. However, House Bill 20-1143 was signed into law with the same provisions of this bill.

Summary of Legislation

This bill increases criminal penalties for the pollution of state waters and gives jurisdiction in these matters to district attorneys and the Attorney General, as summarized further below.

Criminal pollution. The bill increases penalties on a person who commits criminal pollution of state waters as follows. For a violation committed:

- *with criminal negligence or recklessly*, the violator is guilty of an unclassified misdemeanor punishable by a maximum fine of \$25,000 per day for each day the violation occurs, imprisonment of up to 1 year, or both—increased from the current maximum daily fine of \$12,500; and
- *knowingly or intentionally*, the violator is guilty of a class 5 felony punishable by a maximum fine of \$50,000 per day for each day the violation occurs, imprisonment of up to 3 years, or both—increased from the current daily maximum fine of \$25,000.

Falsification and tampering. Under current law, a person who knowingly makes any false representation in a required record or who knowingly renders inaccurate any required water quality monitoring device or method commits a misdemeanor with a maximum fine of \$10,000, imprisonment in the county jail for not more than 6 months, or both. Under the bill, this offense and penalty are increased to a class 5 felony punishable by a maximum fine of \$100,000, imprisonment

from a minimum of 1 year to a maximum of 3 years with a mandatory 2-year parole period. If a person commits two separate offenses in two separate occurrences within a period of two years, the maximum fine and imprisonment for the second offense are double the default amounts.

District Attorney and Attorney General jurisdiction. The bill requires prosecution under these statutes to be commenced upon request, by either the Colorado Department of Public Health and Environment or a peace officer, to either the Attorney General or district attorney in the district where the alleged violation occurred.

Comparable Crime Analysis

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of an existing crime. This section outlines data on crimes comparable to the offense in this bill and discusses assumptions on future rates of criminal conviction for those offense.

Prior conviction data and assumptions. This bill reclassifies the existing fine penalties for offenses of criminal water pollution and falsification or tampering of water records or devices to an unclassified misdemeanor or a class 5 felony. In the past 10 years, there have been 3 prosecutions under these statutes. Demographic data is unknown.

State Revenue and Expenditures

This analysis assumes that there will be a minimal increase in criminal case filings as a result of the bill, some of which may be prosecuted by the Attorney General. Any increase in fines credited to the General Fund, court fees, and the related TABOR impact is expected to be minimal. Similarly, potential workload increases for the Department of Law, the Judicial Department, the Division of Probation, agencies that provide representation to indigent persons, and the Department of Corrections require no change in appropriations. If there are more cases than anticipated by this fiscal note, these costs will be addressed through the annual budget process. Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

Local Government

Similar to the state, it is expected that any workload or cost increase for district attorneys to prosecute offenses subject to the new penalties created by the bill will be minimal. Similarly, the impact on county jails is expected to be minimal.

Effective Date

The bill was postponed indefinitely by the House Energy and Environment Committee on May 28, 2020.

State and Local Government Contacts

Corrections
District Attorneys
Judicial
Natural Resources
Public Safety

Counties
Information Technology
Law
Public Health and Environment
Sheriffs