

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 18-0810.01 Ed DeCecco x4216

SENATE BILL 18-128

SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

Liston,

Senate Committees

Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING A RESTRICTION ON A STATE AGENCY'S AUTHORITY TO**
102 **INCREASE A FEE.**

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://leg.colorado.gov>.)

Beginning September 1, 2018, the bill requires all state agency fee increases to start on July 1 of a given year, with the exception of an emergency fee increase. A state agency shall not increase a fee unless:

- ! On or before the February 1 prior to the starting date of the increase, the state agency submits a fee increase proposal, which includes specified information, to the joint budget

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

SENATE
3rd Reading Unamended
February 21, 2018

SENATE
2nd Reading Unamended
February 20, 2018

committee;

- ! A majority of the members on the joint budget committee approve the fee increase as it is described in the fee increase proposal and without alteration; and
- ! A grant of authority to the state agency for the fee increase is included in authorizing legislation, which is enacted and becomes law.

A state agency may adopt an emergency fee increase that does not meet these conditions, but on or before the next February 1 the state agency is required to submit a fee increase proposal for the emergency fee. If this fee increase proposal is approved by the joint budget committee and included in authorizing legislation, then the state agency may continue to impose the increased fee.

If a grant of authority for the associated emergency fee increase is not included in the next possible authorizing legislation, then the state agency is required to lower the fee to the amount it was prior to the increase and refund the increased amount of the fee to the fee payer. If a refund is impossible, then the state agency is required to immediately reduce the fee from its original amount by an amount equal to the emergency fee increase and keep it at that level until the amount of the lost revenue offsets the additional revenue from the increased fee. Thereafter, the fee may return to its original amount.

If a state agency adopts a fee increase after April 1, 2018, but prior to September 1, 2018, the fee increase is treated like an emergency fee for which the state agency is required to submit a fee increase proposal.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 2-3-209 as
3 follows:

4 **2-3-209. State agency - fee increase - procedures -**
5 **authorization - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
6 CONTEXT OTHERWISE REQUIRES:

7 (a) "AUTHORIZING LEGISLATION" MEANS A BILL DESCRIBED IN
8 SUBSECTION (5) OF THIS SECTION THAT IS ENACTED AND BECOMES LAW.

9 (b) "FEE INCREASE PROPOSAL" MEANS THE REPORT THAT A STATE
10 AGENCY SUBMITS TO THE JOINT BUDGET COMMITTEE THAT INCLUDES THE
11 INFORMATION DESCRIBED IN SUBSECTION (3) OF THIS SECTION.

1 (c) "STATE AGENCY" MEANS ANY DEPARTMENT, COMMISSION,
2 COUNCIL, BOARD, BUREAU, COMMITTEE, AGENCY, OR OTHER
3 GOVERNMENTAL UNIT OF THE EXECUTIVE BRANCH OF STATE
4 GOVERNMENT. "STATE AGENCY" DOES NOT INCLUDE AN INSTITUTION OF
5 HIGHER EDUCATION.

6 (2) BEGINNING SEPTEMBER 1, 2018, THE STARTING DATE FOR ANY
7 FEE INCREASE BY A STATE AGENCY IS JULY 1 OF A GIVEN YEAR, EXCEPT AS
8 SET FORTH IN SUBSECTION (6) OF THIS SECTION. A STATE AGENCY SHALL
9 NOT INCREASE A FEE UNLESS:

10 (a) ON OR BEFORE THE FEBRUARY 1 THAT IS PRIOR TO THE
11 STARTING DATE OF THE INCREASE, THE STATE AGENCY SUBMITS A FEE
12 INCREASE PROPOSAL TO THE JOINT BUDGET COMMITTEE;

13 (b) A MAJORITY OF THE MEMBERS OF THE JOINT BUDGET
14 COMMITTEE APPROVE THE FEE INCREASE AS IT IS DESCRIBED IN THE FEE
15 INCREASE PROPOSAL; AND

16 (c) A GRANT OF AUTHORITY TO THE STATE AGENCY FOR THE FEE
17 INCREASE IS INCLUDED IN AUTHORIZING LEGISLATION.

18 (3) A STATE AGENCY SHALL INCLUDE THE FOLLOWING
19 INFORMATION IN A FEE INCREASE PROPOSAL THAT IT SUBMITS TO THE JOINT
20 BUDGET COMMITTEE IN ACCORDANCE WITH SUBSECTION (2)(a) OR (6)(b)
21 OF THIS SECTION:

22 (a) THE STATUTORY AUTHORITY FOR THE FEE;

23 (b) THE AMOUNT OF THE FEE PRIOR TO THE INCREASE;

24 (c) THE PROPOSED FEE INCREASE OR, IN THE CASE OF AN
25 EMERGENCY FEE, THE ACTUAL FEE INCREASE;

26 (d) THE REASON FOR THE FEE INCREASE, WHICH IN THE CASE OF AN
27 EMERGENCY FEE INCREASE MUST INCLUDE A DESCRIPTION OF THE

1 CIRCUMSTANCES GIVING RISE TO THE EMERGENCY;

2 (e) WHETHER THE FEE INCREASE IS TEMPORARY OR PERMANENT,
3 AND IF IT IS TEMPORARY, FOR HOW LONG IT WILL BE INCREASED;

4 (f) ANTICIPATED IMPACTS ON THE FEE PAYERS;

5 (g) ANY ADVERSE EFFECTS ON THE ECONOMY, CONSUMERS,
6 PRIVATE MARKETS, SMALL BUSINESSES, JOB CREATION, AND ECONOMIC
7 COMPETITIVENESS THAT COULD RESULT FROM THE FEE INCREASE; AND

8 (h) ANTICIPATED OUTCOMES IF THE FEE IS NOT INCREASED OR, IN
9 THE CASE OF AN EMERGENCY FEE INCREASE, WAS NOT INCREASED.

10 (4) ON OR BEFORE APRIL 1, 2019, AND EACH APRIL 1 THEREAFTER,
11 THE JOINT BUDGET COMMITTEE SHALL CONSIDER EACH FEE INCREASE
12 PROPOSAL SUBMITTED TO IT ON OR BEFORE FEBRUARY 1 OF THE SAME
13 YEAR. THE COMMITTEE SHALL VOTE WHETHER TO APPROVE THE FEE
14 INCREASE DESCRIBED IN THE PROPOSAL WITHOUT ALTERATION. IF A
15 MAJORITY OF THE MEMBERS OF THE COMMITTEE APPROVE THE FEE
16 INCREASE, IT MUST BE INCLUDED IN THE INTRODUCED BILL DESCRIBED IN
17 SUBSECTION (5) OF THIS SECTION.

18 (5) BEGINNING WITH THE 2019 LEGISLATIVE SESSION AND EACH
19 LEGISLATIVE SESSION THEREAFTER, THE JOINT BUDGET COMMITTEE OF THE
20 GENERAL ASSEMBLY SHALL INTRODUCE A BILL TO GRANT AUTHORITY TO
21 A STATE AGENCY TO INCREASE ITS FEE AS DESCRIBED IN THE AGENCY'S FEE
22 INCREASE PROPOSAL IN ACCORDANCE WITH SUBSECTION (4) OF THIS
23 SECTION. THE BILL IS NOT SUBJECT TO THE DEADLINES FOR INTRODUCTION
24 SET FORTH IN THE JOINT RULES OF THE SENATE AND THE HOUSE OF
25 REPRESENTATIVES. IF THE BILL IS ENACTED AND BECOMES LAW, THEN IT
26 CONSTITUTES THE GRANT OF AUTHORITY FOR THE FEE INCREASE THAT IS
27 REQUIRED BY SUBSECTION (2)(c) OF THIS SECTION.

1 (6) (a) A STATE AGENCY MAY ADOPT AN EMERGENCY FEE
2 INCREASE THAT DOES NOT COMPLY WITH THE REQUIREMENTS OF
3 SUBSECTION (2) OF THIS SECTION IF THE AGENCY FINDS THAT IMMEDIATE
4 ADOPTION OF THE FEE INCREASE IS NECESSARY TO COMPLY WITH A STATE
5 OR FEDERAL LAW OR FEDERAL REGULATION OR FOR THE PRESERVATION OF
6 PUBLIC HEALTH, SAFETY, OR WELFARE.

7 (b) (I) IF A STATE AGENCY ADOPTS AN EMERGENCY FEE INCREASE,
8 THEN, ON OR BEFORE THE NEXT FEBRUARY 1, THE STATE AGENCY SHALL
9 SUBMIT A FEE INCREASE PROPOSAL THAT DESCRIBES THE EMERGENCY FEE
10 INCREASE TO THE JOINT BUDGET COMMITTEE. IF THE COMMITTEE
11 APPROVES THE FEE INCREASE AND A GRANT OF AUTHORITY TO THE STATE
12 AGENCY FOR THE FEE INCREASE IS INCLUDED IN AUTHORIZING
13 LEGISLATION, THEN THE STATE AGENCY MAY CONTINUE TO IMPOSE THE
14 INCREASED FEE.

15 (II) IF A STATE AGENCY IMPOSES AN EMERGENCY FEE INCREASE
16 BUT A GRANT OF AUTHORITY FOR THE ASSOCIATED FEE INCREASE IS NOT
17 INCLUDED IN THE NEXT POSSIBLE AUTHORIZING LEGISLATION, THEN THE
18 STATE AGENCY SHALL LOWER THE FEE TO THE AMOUNT IT WAS PRIOR TO
19 THE INCREASE AND REFUND THE INCREASED AMOUNT OF THE FEE TO THE
20 FEE PAYER. IF IT IS IMPOSSIBLE FOR THE STATE AGENCY TO MAKE THE
21 REFUND, THEN THE STATE AGENCY SHALL IMMEDIATELY REDUCE THE FEE
22 FROM ITS ORIGINAL AMOUNT BY AN AMOUNT EQUAL TO THE EMERGENCY
23 FEE INCREASE. ONCE THE TOTAL AMOUNT OF THE FEE REVENUE THAT IS
24 LOST DUE TO THE REDUCTION FROM THE ORIGINAL AMOUNT IS EQUAL TO
25 THE FEE REVENUE THAT THE STATE AGENCY RECEIVED FROM THE
26 INCREASE IN THE FEE, THE STATE AGENCY MAY RETURN THE FEE TO THE
27 ORIGINAL AMOUNT.

1 (c) IF A STATE AGENCY SUBMITS A FEE INCREASE PROPOSAL TO THE
2 JOINT BUDGET COMMITTEE IN ACCORDANCE WITH SUBSECTION (2) OF THIS
3 SECTION, BUT THE STATE AGENCY IS NOT GRANTED AUTHORITY FOR THE
4 FEE INCREASE IN THE NEXT AUTHORIZING LEGISLATION, THEN A STATE
5 AGENCY SHALL NOT ADOPT AN EMERGENCY FEE INCREASE THAT IS
6 SUBSTANTIALLY THE SAME AS THE REJECTED FEE INCREASE PROPOSAL.

7 (7) IF A STATE AGENCY ADOPTS A FEE INCREASE AFTER APRIL 1,
8 2018, BUT PRIOR TO SEPTEMBER 1, 2018, THEN THE STATE AGENCY SHALL
9 TREAT THE FEE INCREASE LIKE AN EMERGENCY FEE AND SUBMIT AN
10 EMERGENCY FEE PROPOSAL ON OR BEFORE FEBRUARY 1, 2019, TO THE
11 JOINT BUDGET COMMITTEE, AND THE EMERGENCY FEE PROPOSAL IS
12 SUBJECT TO SUBSECTION (6) OF THIS SECTION.

13 (8) ANY FEE INCREASE MADE ON OR AFTER SEPTEMBER 1, 2018,
14 THAT DOES NOT COMPLY WITH THIS SECTION IS VOID. THE REQUIREMENTS
15 OF THIS SECTION APPLY TO ANY FEE THAT DOES NOT HAVE AN AMOUNT SET
16 IN STATUTE AND IT SUPERSEDES ANY INCONSISTENT, SPECIFIC PROVISION
17 OF LAW TO THE CONTRARY.

18 **SECTION 2. Act subject to petition - effective date.** This act
19 takes effect September 1, 2018; except that, if a referendum petition is
20 filed pursuant to section 1 (3) of article V of the state constitution against
21 this act or an item, section, or part of this act within the ninety-day period
22 after final adjournment of the general assembly, then the act, item,
23 section, or part will not take effect unless approved by the people at the
24 general election to be held in November 2018 and, in such case, will take
25 effect on the date of the official declaration of the vote thereon by the
26 governor.