



Legislative
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FISCAL NOTE

Drafting Number: LLS 18-0075
Prime Sponsors: Rep. Arndt

Date: March 21, 2018
Bill Status: House Health, Insurance, and Environment
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Bill Topic: SAFE DISPOSAL NATURALLY OCCURRING RADIOACTIVE MATERIAL

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 State Board of Health to adopt rules concerning the disposal of naturally occurring radioactive material and technologically enhanced naturally occurring radioactive material. The bill increases ongoing state revenue and expenditures.

Appropriation Summary: For FY 2018-19, the bill requires an appropriation of \$257,155 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 18-1215**

		FY 2018-19	FY 2019-20
Revenue	Cash Funds	\$425,000	\$425,000
	Total	\$425,000	\$425,000
Expenditures	Cash Funds	\$257,155	\$286,050
	Centrally Appropriated	\$113,398	\$130,651
	Total	\$370,553	\$416,701
	Total FTE	3.3 FTE	4.0 FTE
Transfers		-	-
TABOR Refund	General Fund	\$425,000	\$425,000

Summary of Legislation

Under current law, the State Board of Health in the Department of Public Health and Environment (CDPHE) cannot adopt rules concerning the disposal of naturally occurring radioactive materials (NORM) until the Environmental Protection Agency (EPA) has adopted rules concerning the disposal of NORM. This bill requires the state board, in consultation with the Water Quality Control Commission, Solid and Hazardous Waste Commission, and the Colorado Oil and Gas Conservation Commission to adopt rules concerning both the disposal of NORM and technologically enhanced naturally occurring radioactive materials (TENORM). The bill also eliminates the current exemption of TENORM from oil and gas exploration, production, or development operations from the radiation waste disposal provisions of the Radiation Control Act.

Prior to adopting the rules, the state board is required to investigate the concentration of radionuclides in TENORM-containing, gas exploration and production waste (EP waste) that may be safely disposed of in different types of facilities, or by discharge into state waters. Until the rules are adopted, EP waste with potentially high levels of TENORM cannot be disposed of at a facility or location that is not specifically approved and designated to receive the waste unless it has been tested and found to contain low levels of TENORM. Generators of EP waste are required to report information in a format specified by the state board on their EP waste.

Background

TENORM is naturally occurring radioactive material whose radionuclide concentrations have been increased as a result of human activities such as manufacturing, mineral extraction, or water treatment. CDPHE currently prohibits EP waste streams with the potential for high levels of TENORM from disposal in a Colorado landfill not specifically approved and designated to take them unless the material is tested and found to be below a level specified by CDPHE in its November 7, 2017 modification to the *Interim Policy and Guidance Pending Rulemaking for the Control and Disposition of Technologically Enhanced Naturally Occurring Radioactive Materials in Colorado*, dated February 2007.

The EPA is currently studying TENORM material and its disposal but has not developed TENORM regulations. The EPA will provide its results in a series of reports on individual industries on its website as the reports become available.

Assumptions

The fiscal note assumes that 25 facilities that currently accept TENORM from EP waste will need to be licensed similarly to uranium mills.

State Revenue

This bill will increase revenue by \$425,000 in FY 2018-19 and FY 2019-20 to the Radiation Control Fund in the CDPHE.

Fee impact on TENORM disposal 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 CDPHE based on cash fund balance, estimated program costs, and the estimated number of licensees subject to the fee. Table 2 below identifies the fee impact of this bill.

**Table 2
 Fee Impact on TENORM Disposal Facilities**

Fiscal Year	Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2018-19	TENORM Disposal License	\$17,000	25	\$425,000
FY 2019-20	TENORM Disposal License	\$17,000	25	\$425,000

TABOR Refund

This bill increases state revenue from fees, which will increase the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

State Expenditures

This bill will increase expenditures by \$370,553 and 3.3 FTE in FY 2018-19 and \$416,701 and 4.0 FTE in FY 2019-20 from the Radiation Control Fund in the CDPHE. The bill will also increase expenditures for the Department of Natural Resources. These costs are shown in Table 3 and explained below.

**Table 3
 Expenditures Under HB 18-1215**

	FY 2018-19	FY 2019-20
Department of Public Health and Environment		
Personal Services	\$235,208	\$282,250
Operating Expenses and Capital Outlay Costs	\$21,947	\$3,800
Centrally Appropriated Costs*	\$113,398	\$130,651
FTE – Personal Services	3.3 FTE	4.0 FTE
Total Cost	\$370,553	\$416,701
Total FTE	3.3 FTE	4.0 FTE

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

Department of Public Health and Environment. Beginning in FY 2018-19, the Radiation Program will add 4.0 FTE of environmental protection specialists to support the initial licensing of 25 facilities to accept TENORM from oil and gas operations. This staff be responsible for site inspections, document and engineering review, and enforcement actions. Initial licensing is expected to take three years after which 2.0 FTE will be required to maintain regulatory oversight over the facilities.

The CDPHE will also have an increase in workload to conduct a stakeholder process to develop regulations for TENORM management and disposal and to conduct rulemaking hearings.

Department of Natural Resources. The Colorado Oil and Gas Conservation Commission (COGCC) will have an increase in workload and expenditures to respond to the bill but no new appropriations are anticipated at this time. The COGCC may have an increase in costs associated with CDPHE rulemaking in its capacity as an operator of orphaned wells. While rulemaking is underway, the COGCC will have costs for testing EP waste prior to removal from an orphaned well site. For EP waste that is found to have high levels of TENORM, the COGCC will have increased costs to dispose of the waste. Because the program operates on a fixed budget, additional expenses for waste handling will be offset by reduced expenditures on plugging and reclamation of other orphaned wells.

The COGCC may also need to promulgate rules for the handling of EP waste that contains NORM or TENORM but that will depend on the outcome of the CDPHE rulemaking. If additional funding is needed for this rulemaking, it will be addressed through the annual budget process.

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 \$113,398 in FY 2018-19 and \$130,651 in FY 2019-20.

Local Government

This bill may impact some local governments that operate landfills or water treatment plants. These impacts will depend on the results of the rulemaking on TENORM handling and disposal and have not been estimated for the fiscal note.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed, and applies to conduct occurring on or after that date.

State Appropriations

For FY 2018-19, the bill requires an appropriation of \$257,155 from the Radiation Control Fund and an allocation of 3.3 FTE to the Department of Public Health and Environment.

State and Local Government Contacts

Counties

Natural Resources

Information Technology

Public Health and Environment