



Legislative
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SB 20-101

**REVISED
FISCAL NOTE**

(replaces fiscal note dated February 5, 2020)

Drafting Number: LLS 20-0815
Prime Sponsors: Sen. Sonnenberg

Date: February 25, 2020
Bill Status: Senate Finance
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Bill Topic: **INVESTIGATION PROCESS FOR PESTICIDE APPLICATORS**

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill requires that pesticide applicators be notified about complaints against them within 24 hours of identifying the subject of the complaint by the Department or Commissioner of Agriculture or no disciplinary action can be taken against them. Complaint investigations must be completed within one year of the complaint. This will increase state revenue and expenditures beginning in FY 2020-21.

Appropriation Summary: For FY 2020-21, the bill requires an appropriation of \$517,577 to the Department of Agriculture.

Fiscal Note Status: The revised fiscal note reflects the introduced bill as amended by the Senate Agriculture Committee.

**Table 1
State Fiscal Impacts Under SB 20-101**

		FY 2020-21	FY 2021-22
Revenue	Cash Funds	\$588,000	\$280,000
	Total	\$588,000	\$280,000
Expenditures	Cash Funds	\$517,577	\$209,956
	Centrally Appropriated	\$63,187	\$69,507
	Total	\$580,764	\$279,463
	Total FTE	2.7 FTE	3.0 FTE
Transfers		-	-
TABOR Refund	General Fund	\$588,000	\$280,000

Summary of Legislation

This bill requires the Colorado Department of Agriculture (CDA) or Commissioner of Agriculture to notify a commercial pesticide applicator within 24 hours of identifying the applicator who is the subject of a complaint. Failure to do so:

- prohibits the CDA or commissioner from taking action against the applicator; and
- provides immunity to the applicator from criminal prosecution based on the facts of the complaint.

In order to bring proceedings to impose discipline or civil penalties, the CDA must give a licensee notice, in writing, of objective facts or conduct established upon a full investigation, and given the licensee the opportunity to respond, within one year after the occurrence of the facts upon which the complaint is based. A criminal prosecution must be commenced within one year after a complaint is received or initiated. This does not apply to the act of applying pesticides without a license when licensure is required. Complaints concerning the commercial application of pesticides on a marijuana crop are not subject to the bill.

Background

The Division of Plant Industry in the CDA administers the Pesticides Program, which includes the registration of pesticide products, and the licensing and registration of individuals and businesses who apply pesticides or use certain pest control devices for compensation or production agriculture. In 2019, 9,833 individuals held pesticide applicator licenses. The program registers approximately 14,000 pesticide products at a current fee of \$205. The total revenue for the program is approximately \$1.9 million.

The program has a staff of 6, receives approximately 100 complaints per year, and currently has a backlog of 173 cases. Each case takes approximately 6 months to investigate. Cases affecting humans, pollinators, or livestock are generally resolved within 8 months. Cases that cause property damage may not be resolved for several years. The program works in collaboration with the Attorney General's Office in disciplinary actions.

State Revenue

Assuming that this bill will be funded from fee increases, state revenue will increase by \$588,000 in FY 2020-21 and \$280,000 in FY 2021-22 to the Plant Health, Pest Control and Environmental Protection Fund in the CDA. The bill may result in an earlier collection of penalties due to the time limits, but these are not identified as a revenue increase in the fiscal note.

Fee impact on pesticide product registrations. 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 CDA based on cash fund balance, estimated program costs, and the estimated number of licenses subject to the fee. Table 2 below identifies the fee impact of this bill.

**Table 2
Fee Impact on Pesticide Products**

Fiscal Year	Type of Fee	Current Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2020-21	Pesticide Product Registration	\$205	\$247	14,000	\$588,000
FY 2021-22	Pesticide Product Registration	\$205	\$225	14,000	\$280,000

State Expenditures

This bill will increase expenditures by \$580,764 and 2.7 FTE in FY 2020-21 and \$279,463 and 3.0 FTE in FY 2021-22 from the Plant Health, Pest Control and Environmental Protection Fund in the CDA. These costs are shown in Table 3 and explained below.

**Table 3
Expenditures Under SB 20-101**

	FY 2020-21	FY 2021-22
Department of Agriculture		
Personal Services	\$182,332	\$198,906
Operating Expenses	\$16,645	\$11,050
Capital Outlay Costs	\$318,600	-
Centrally Appropriated Costs*	\$63,187	\$69,507
Total Cost	\$580,764	\$279,463
Total FTE	2.7 FTE	3.0 FTE

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

Personal services. The CDA requires 3.0 FTE beginning in FY 2020-21 to reduce the time required to commence disciplinary action required under the bill. This has been prorated to 2.7 FTE in FY 2020-21 to account for the August effective date. This includes 2.0 FTE compliance specialists to investigate complaints, compile cases, consult with attorneys, and monitor case development. In addition, the CDA requires 1.0 FTE of a chemist to process samples within 30 to 60 days.

Operating expenses and capital outlay costs. Operating expenses include training, travel, and investigation materials for compliance specialists. Capital outlay in FY 2020-21 includes \$300,000 for liquid chromatography mass spectrometry equipment for the CDA laboratory.

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 \$63,187 in FY 2020-21 and \$69,507 in FY 2021-22.

TABOR refund. The bill is expected to increase state General Fund obligations for TABOR refunds by \$588,000 in FY 2020-21 and \$280,000 in 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.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2020-21, the bill requires an appropriation of \$517,577 and 2.7 FTE to the Department of Agriculture from the Plant Health, Pest Control and Environmental Protection Fund.

State and Local Government Contacts

Agriculture Law