



Legislative Council Staff
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Fiscal Note

Drafting Number: LLS 21-0707 Date: March 22, 2021
Prime Sponsors: Rep. Van Winkle; Michaelson Jenet; Sen. Coram Bill Status: House HHS
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Bill Topic: REGULATION OF RADON PROFESSIONALS

- Summary of Fiscal Impact: [X] State Revenue [X] State Expenditure [ ] State Transfer [ ] TABOR Refund [ ] Local Government [ ] Statutory Public Entity

This bill creates a regulatory structure for radon professionals. It increases state revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2021-22, the bill requires an appropriation of \$84,156 to multiple state agencies.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 21-1195

Table with 4 columns: Category, Sub-category, Budget Year FY 2021-22, and Out Year FY 2022-23. Rows include Revenue (Cash Funds, Total Revenue), Expenditures (General Fund, Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and TABOR Refund.

## Summary of Legislation

This bill requires radon measurement and mitigation professionals to be licensed by the Division of Professions and Occupations (DPO) in the Department of Regulatory Agencies (DORA) by July 1, 2022. Applicants for licensure must meet certain requirements and maintain professional liability insurance.

The bill also creates the nine-member Radiation Advisory Committee in the Department of Public Health and Environment (CDPHE) to advise the director of the DPO. Member qualifications are listed in the bill and include the executive director of the CDPHE. Advisory committee members do not receive compensation for their services, but are entitled to reimbursement for actual and necessary expenses.

While the director of the DPO has the authority to take disciplinary action against licensees, a person who conducts radon measurement or mitigation without a license, commits a class 2 misdemeanor for a first offense and a class 1 misdemeanor for subsequent offenses.

The licensing program and advisory committee repeal September 1, 2027, following a sunset review.

## 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 adds the professions of radon measurement or mitigation to the existing offense of unauthorized practice of profession or occupation. From 2018 to 2020, zero offenders have been sentenced and convicted for this offense; therefore, the fiscal note assumes that there will continue to be minimal or no additional criminal case filings or convictions for this offense under the bill. Because the bill is not expected to have a tangible impact on criminal justice-related revenue or expenditures at the state or local levels, these potential impacts are not discussed further in this fiscal note.

Visit [leg.colorado.gov/fiscalnotes](http://leg.colorado.gov/fiscalnotes) for more information about criminal justice costs in fiscal notes.

## State Revenue

This will increase state revenue by \$112,500 in FY 2021-22 and \$115,875 in FY 2022-23 to the Division of Professions and Occupations Cash Fund. This revenue is subject to TABOR.

**Fee impact on radon professionals.** 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 DPO based on cash fund balance, estimated program costs, and the estimated number of licensees subject to the fee. The fiscal note assumes 300 radon professionals will apply for licensure in 2021-22 and an additional 9 in FY 2022-23. Table 2 below identifies the fee impact of this bill.

**Table 2  
Fee Impact on Radon Professionals**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Proposed Fee</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
<b>FY 2021-22</b>	Radon Professional License	375	300	\$112,500
	<b>FY 2021-22 Total</b>			<b>\$112,500</b>
<b>FY 2022-23</b>	Radon Professional License	375	309	\$115,875
	<b>FY 2022-23 Total</b>			<b>\$115,875</b>

**State Expenditures**

This bill will increase state expenditures by \$102,344 and 0.7 FTE in FY 2021-22 and \$182,248 and 1.6 FTE in FY 2022-23 from the DPO Cash Fund and the General Fund. These costs are shown in Table 3 and explained below.

**Table 3  
Expenditures Under HB 21-1195**

<b>Cost Components</b>	<b>FY 2021-22</b>	<b>FY 2022-23</b>
<b>Department of Regulatory Agencies</b>		
Personal Services	\$40,308	\$69,767
Operating Expenses	\$675	\$1,485
Capital Outlay Costs	\$6,200	-
Legal Services	\$15,951	\$47,534
Centrally Appropriated Costs <sup>1</sup>	\$14,645	\$28,598
FTE – Personal Services	0.5 FTE	1.1 FTE
FTE – Legal Services	-	0.2 FTE
<b>DORA Subtotal</b>	<b>\$77,779</b>	<b>\$147,384</b>
<b>Department of Public Health and Environment</b>		
Personal Services	\$17,054	\$25,581
Advisory Committee Expenses	\$3,968	\$3,968
Centrally Appropriated Costs <sup>1</sup>	\$3,543	\$5,315
FTE – Personal Services	0.2 FTE	0.3 FTE
<b>CDPHE Subtotal</b>	<b>\$24,565</b>	<b>\$34,864</b>
<b>Total</b>	<b>\$102,344</b>	<b>\$182,248</b>
<b>Total FTE</b>	<b>0.7 FTE</b>	<b>1.6 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Department of Regulatory Agencies.** The DPO will have an increase in expenditures of \$77,779 and 0.5 FTE in FY 2021-22 and \$147,384 and 1.1 FTE in FY 2022-23. The DPO will establish the regulatory program in FY 2021-22 and begin issuing licenses prior to July 1, 2022. Staff are prorated to October 1, 2021, for the program manager and January 1, 2022, for the technician and administrative assistant that will staff the radon professional licensing program. The program will be fully staffed in FY 2022-23, including 0.1 FTE of criminal investigator for enforcement actions.

Costs include 150 hours of legal services in FY 2021-22 for rulemaking and 447 hours of legal services in FY 2022-23 for rulemaking and enforcement. The program manager will work with the advisory committee to develop rules for standards of practice for radon measurement and mitigation.

Legal services are provided by the Department of Law at a rate of \$106.34 per hour.

**Department of Public Health and Environment.** The CDPHE will have an increase in General Fund expenditures of \$24,565 and 0.3 FTE in FY 2021-22 and \$34,864 and 0.3 FTE in FY 2022-23. This will provide for an environmental protection specialist to staff the advisory committee. Costs also include reimbursements for advisory committee members assuming four meetings per year, with eight members receiving a reimbursement of \$124 per meeting.

**Judicial Department.** The trial courts may see an increase for judicial review of compliance issues beginning in FY 2022-23. This increase is expected to be minimal and not require additional appropriations.

**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 \$18,188 in FY 2021-22 and \$33,913 in FY 2022-23.

**TABOR refunds.** The bill increases state revenue subject to TABOR. For FY 2022-23, the March 2021 LCS forecast projects revenue to fall short of the TABOR limit by \$28.6 million, or 0.2 percent of the limit. If actual revenue exceeds the limit, the bill will increase the amount required to be refunded to taxpayers in tax year 2023.

## Technical Note

Expenditures for the CDPHE to support the advisory committee will be paid from the General Fund rather than the DPO Cash Fund, where revenue collected from the licensing of radon professionals will be deposited.

## Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

## State Appropriations

For FY 2021-22, the following appropriations are required:

- \$63,134 and 0.5 FTE to the Department of Regulatory Agencies from the Division of Professions and Occupations Cash Fund, of which \$15,951 is reappropriated to the Department of Law; and
- \$21,022 and 0.2 FTE to the Department of Public Health and Environment from the General Fund.

## State and Local Government Contacts

Information Technology  
Public Health and Environment

Judicial  
Regulatory Agencies

Law