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Final Fiscal Note

Drafting Number: LLS 24-0858 Date: June 14, 2024
Prime Sponsors: Rep. Winter T. Bill Status: Postponed Indefinitely
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Bill Topic: LOCAL GOVERNMENT CONTROL OVER BURN BARREL REGULATION

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

The bill would have specified that local governments control the regulation of burning in burn barrels and not the state. It would have increased state expenditures and may have impacted local revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2024-25, the bill would have required an appropriation of \$51,208 to the Colorado Department of Public Health and Environment.

Fiscal Note Status: The final fiscal note reflects the introduced bill. This bill was postponed indefinitely by the House Energy and Environment Committee on April 18, 2024; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under HB 24-1141

Table with 4 columns: Category, Sub-category, Budget Year FY 2024-25, and Out Year FY 2025-26. Rows include Revenue, Expenditures (General Fund, Total FTE), Transfers, and Other Budget Impacts (General Fund Reserve).

Summary of Legislation

The bill specifies that local governments, rather than the Air Quality Control Commission or the Department of Public Health and Environment (CDPHE), control the regulation of burning in burn barrels. Burning in burn barrels is permitted as regulated unless prohibited by a local government. The bill also classifies burning in burn barrels as “noncommercial burning of trash,” and clarifies that burning in burn barrels is not open burning.

Background

Under current law, burn barrels are classified as incinerators that require construction permits. Operating a burn barrel without a permit may result in a penalty of up to \$55,554 per day for each day of the violation. Incinerators must have pollution control systems that reduce emissions and are subject to federal and state testing requirements and regulations.

State Revenue

The bill may result in a decrease in revenue to the CDPHE, as it can no longer regulate burn barrels as incinerators, or enforce burn barrel-related violations. Revenue from penalties for air quality violations is deposited into the Community Impact Cash Fund and the General Fund. However, burn barrel-related violations are rare and the bill’s requirements will have a minimal overall impact on state revenue. Penalties from air quality violations are subject to the state’s TABOR limit.

State Expenditures

The bill increases state expenditures in the CDPHE by about \$51,000 in FY 2024-25 and future years, paid from the General Fund, for increased legal services costs provided by the Department of Law. Specifically, the CDPHE will require 400 hours of legal services (0.2 FTE in the Department of Law) beginning FY 2024-25 to assist with rulemaking, manage legal issues pertaining to revisions of its State Implementation Plan, and facilitate discussions with the Environmental Protection Agency. On an ongoing basis, legal services are required for departmental assistance to local governments with regulations, permitting, and enforcement. Legal services are provided by the Department of Law at a rate of \$128.02 per hour.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Local Government

The bill may increase workload for local governments that choose to develop, implement, and enforce local ordinances and regulations regarding burning in burn barrels. It may also increase local government revenue for any new burn barrel-related permits or penalties.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2024-25, the bill requires a General Fund appropriation of \$51,208 to the Colorado Department of Public Health and Environment. This amount is reappropriated to the Department of Law, and 0.2 FTE.

State and Local Government Contacts

Counties

Law

Local Affairs

Public Health and Environment

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).