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Revised Fiscal Note

(replaces fiscal note dated April 19, 2024)

Drafting Number: LLS 24-1156 Date: May 4, 2024
Prime Sponsors: Rep. Joseph; Lindsay; Sen. Cutter; Priola Bill Status: Senate Appropriations
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Bill Topic: ENVIRONMENTAL SUSTAINABILITY CIRCULAR ECONOMY

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

The bill consolidates existing waste diversion programs, including an existing enterprise, into a new enterprise. It decreases state revenue and expenditures, creates a transfer, and may increase local government revenue and expenditures beginning in FY 2024-25.

Appropriation Summary: No appropriation is required as the Colorado Circular Communities Cash Fund is continuously appropriated to the Colorado Circular Communities Enterprise.

Fiscal Note Status: The revised fiscal note reflects the reengrossed bill.

Table 1
State Fiscal Impacts Under HB 24-1449

Table with 4 columns: Category, Sub-category, Budget Year FY 2024-25, and Out Year FY 2025-26. Rows include Revenue, Expenditures, Transfers, and Other Budget Impacts.

1 Under the bill, a state agency fee that is subject to TABOR is repealed and a new fee assessed by an enterprise is created, resulting in a decrease in revenue subject to TABOR.

Summary of Legislation

The bill repeals and reenacts the Pollution Prevention Act of 1992 by renaming it the Colorado Sustainability Act, modifying its programs, and consolidating them into the new Colorado Circular Communities Enterprise in the Department of Public Health and Environment (CDPHE).

Enterprises. The bill replaces the existing Front Range Waste Diversion Enterprise with the Colorado Circular Communities Enterprise. The new enterprise inherits any existing contracts or in-process responsibilities of the existing enterprise to provide continuity of operations. The enterprise is overseen by a board of directors which includes representatives from CDPHE, local governments, and the solid waste disposal industry. The bill creates the Colorado Circular Communities Cash Fund, which is continuously appropriated to the enterprise.

The enterprise is charged with promoting a circular economy, including promoting reuse of natural resources, promoting reduction of greenhouse gas emissions, incentivizing businesses to use recyclable and compostable materials, supporting sustainability infrastructure, creating local jobs, extending the life of local landfills, and supporting waste diversion. It must collaborate with the Circular Economy Development Center, the Producer Responsibility Program in CDPHE, and the Office of Economic Development and International Trade.

The existing enterprise operates a grant program to achieve statutory waste diversion goals. The bill repeals those goals and the new enterprise awards grants that more generally promote a circular economy, including waste diversion and diversion.

On September 1, 2029, the existing enterprise is scheduled to repeal and any remaining cash fund balance transfers to the General Fund. The new enterprise remains in operation until September 1, 2032.

Stakeholder report. Stakeholders may provide feedback to CDPHE on the enterprise's effectiveness. By January 1, 2030, CDPHE must submit a report to the General Assembly with its recommendations based on stakeholder feedback, including the enterprise's repeal date, enterprise fee amounts, and progress towards delivering its services.

Solid waste user fees. Under current law, an operator of solid waste disposal site charges a fee based on the type of vehicle transporting the solid waste and an amount per volume or weight of solid waste disposed. Fee revenue accrues to the Recycling Resources Economic Opportunity Fund for CDPHE to administer the Recycling Resources Economic Opportunity Program. An additional fee on the volume or weight of solid waste disposed in the front range supports the existing enterprise. The bill redirects these fees to the new cash fund supporting the new enterprise and changes how the fees are calculated, resulting in lower fees for solid waste disposal on the front range compared to current law.

Voluntary sustainability program. The bill codifies in statute a voluntary sustainability program that encourages businesses, nonprofit organizations, local governments, schools, and state institutions of higher education to move towards evidenced sustainability. CDPHE must provide technical assistance, facilitate collaboration, support sustainability marketing, and provide services and funding to small businesses.

Pollution Prevention Fee. Under current law, CDPHE collects a Pollution Prevention Fee on facilities that house certain hazardous substances. The fee revenue pays for the activities of the Pollution Prevention Advisory Board in CDPHE, which awards grants, offers technical assistance, and makes policy recommendations on waste diversion issues. Under the bill, the advisory board repeals and the fee revenue instead supports the voluntary sustainability program.

Conforming changes. Any other fees or fines that support the Recycling Resources Economic Opportunity Program or the existing enterprise, and any programs paid for from that revenue, including the Circular Economy Development Center as created by [House Bill 22-1159](#) and the Organics Diversion Study required by [Senate Bill 23-191](#), now fall under the authority of the new enterprise.

State Revenue

The bill decreases state revenue by decreasing the fee on solid waste disposal in the front range and potentially increases revenue from gifts, grants, and donations. Neither revenue source is subject to TABOR.

Fee impact on solid waste disposal. This bill is anticipated to decrease fee revenue over time, as outlined in Table 2 below. These amounts are estimates only; actual revenue will depend on the amount of solid waste disposed each year that originates in the front range.

The current statewide fee per cubic yard of waste disposal is 14 cents. For those living in the front range, there is an additional solid waste disposal fee of 64 cents per cubic yard, which is adjusted for inflation each January. The bill makes these fees geographically distinct for front range and non-front range areas, as follows:

- the 14 cent fee that applies to non-front range areas is unchanged, but directed under the bill to the new fund—this results in no net change in fee revenue, but a change in the fund to which the fee is directed; and
- the 64 cent, adjusted-for-inflation fee that applies to front range areas is increased to 74 cents in July 1, 2024, and 78 cents in January 1, 2025. However, since it is inclusive of the 14 cent fee, this represents a decrease for a half-year in FY 2024-25, and the revenue is expected to further decrease from current law because it is no longer adjusted upward annually for inflation.

Table 2
Fee Impact on Solid Waste Disposal

Fiscal Year	Type of Fee	Revenue Under Current Law	Average Fee Change	Total Fee Impact
FY 2024-25	Front Range Solid Waste Disposal	\$14.9 million	(3.5¢)	(\$660,000)
FY 2025-26	Front Range Solid Waste Disposal	\$17.3 million	(4.0¢)	(\$850,000)

Gifts, grants, and donations. The bill potentially increases state revenue to the Colorado Circular Communities Cash Fund from gifts, grants, or donations; however, no sources have been identified at this time. Gifts, grants, and donations are exempt from TABOR revenue limits.

State Transfers

The bill transfers the balance of the Front Range Waste Diversion Cash Fund to the Colorado Circular Communities Cash Fund on July 1, 2024. This amount is estimated at \$18 million. Any remaining funding on September 1, 2032, will transfer to the General Fund.

The bill transfers the balance of the Recycling Resources Economic Opportunity Fund to the Colorado Circular Communities Cash Fund on September 30, 2025. This transfer is expected to be minimal.

State Expenditures

The bill decreases state expenditures by an estimated \$660,000 in FY 2024-25 and \$850,000 in FY 2025-26 from the Colorado Circular Communities Cash Fund.

Department of Public Health and Environment. The Colorado Circular Communities Enterprise consists of existing programs and has no net impact on state expenditures, except that the decrease in fee revenue results in lower expenditures. For informational purposes, the new enterprise is estimated to have total revenue and expenditures of about \$20 million per year.

- **Circular economy activities.** By decreasing fee revenue to the enterprise, the bill may decrease expenditures for activities that promote a circular economy by up to the same amounts: an estimated \$660,000 in FY 2024-25 and \$850,000 in FY 2025-26.
- **Voluntary sustainability program.** The bill codifies this program in statute, and no change in appropriations is required.
- **Legal services.** CDPHE may require legal services to update rules related to the repeal of existing programs or the creation of new programs. This can be accomplished within existing legal services appropriations. Legal services are provided by the Department of Law at a rate of \$128.02 per hour.

Office of Economic Development and International Trade. Workload may increase to collaborate with the enterprise. This can be accomplished within existing appropriations.

Other Budget Impacts

TABOR refunds. The bill replaces a fee on solid waste disposal with a similar fee that now supports the new enterprise. Since the fee level is the same, there is no net impact on state revenue. However, because the new fee is not subject to TABOR, the bill reduces TABOR refund obligations by the amounts shown in Table 1. Because TABOR refunds are paid from the General Fund, decreased cash fund revenue will increase the amount of General Fund available to spend

or save. Ongoing and additional revenue to the enterprise is not subject to TABOR and will not affect future TABOR refunds.

Local Government and School Districts

The bill increases revenue and expenditures in any local government or school district that applies for and is awarded a grant under the expanded grant program.

Effective Date

The bill takes effect July 1, 2024.

State Appropriations

The Colorado Circular Communities Cash Fund is continuously appropriated to the Colorado Circular Communities Enterprise, so no appropriation is required.

State and Local Government Contacts

Personnel

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](#).