

CHAPTER 87

AGRICULTURE

HOUSE BILL 09-1249

BY REPRESENTATIVE(S) Pommer, Ferrandino, Marostica, Curry, Nikkel, Priola, Ryden, Stephens;
also SENATOR(S) White, Keller, Tapia.

AN ACT

CONCERNING THE CONSOLIDATION OF CERTAIN CASH FUNDS CREATED FOR THE DEPARTMENT OF AGRICULTURE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 1 of title 35, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

35-1-106.3. Plant health, pest control, and environmental protection cash fund - creation. (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND.

(2) ALL REVENUES COLLECTED IN PURSUIT OF THE DEPARTMENT'S EFFORTS IN RELATION TO PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND. THE COMMISSION MAY ESTABLISH A FEE SCHEDULE TO COVER THE DIRECT AND INDIRECT COSTS OF THE COLLECTION AND DISTRIBUTION OF BENEFICIAL INSECTS.

(3) THE PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND SHALL CONSIST OF ANY FEES, FINES, OR PENALTIES COLLECTED PURSUANT TO ARTICLES 4, 9, 10, 11, 11.5, 25, 26, 27, AND 27.5 OF THIS TITLE; ANY FEES, FINES, OR PENALTIES COLLECTED PURSUANT TO ARTICLE 8 OF TITLE 25, C.R.S.; ANY FEES COLLECTED UNDER ARTICLE 12 OF THIS TITLE FOR THE PURPOSE OF FUNDING GROUNDWATER PROTECTION ACTIVITIES; AND ALL REVENUES COLLECTED IN PURSUIT OF THE DEPARTMENT'S EFFORTS TO CONDUCT BIOLOGICAL PEST CONTROL. THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS OF IMPLEMENTING,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

ADMINISTERING, AND ENFORCING THE PROVISIONS OF ARTICLES 4, 9, 10, 11, 11.5, 25, 26, 27, AND 27.5 OF THIS TITLE AND OF ARTICLE 8 OF TITLE 25, C.R.S.; EXCEPT THAT ANY APPROPRIATION FOR THE INDIRECT COSTS OF ISSUING CHEMIGATION PERMITS PURSUANT TO SECTION 35-11-106 SHALL NOT EXCEED THE AMOUNT SPECIFIED IN SECTION 35-11-106 (3) (b). ANY MONEYS FROM THE FUND THAT ARE ALLOCATED FOR BIOLOGICAL PEST CONTROL SHALL SUPPLEMENT ANY GENERAL FUND MONEYS APPROPRIATED FOR THAT PURPOSE.

(4) ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND SHALL BE CREDITED TO THE FUND. AT THE END OF EACH FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

(5) NOTWITHSTANDING SECTION 24-75-402, C.R.S., THE TARGET RESERVE BALANCE FOR THE PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND SHALL BE FIFTY PERCENT OF THE AMOUNT EXPENDED FROM THE FUND DURING EACH FISCAL YEAR.

SECTION 2. 35-1-106.8, Colorado Revised Statutes, is amended to read:

35-1-106.8. Biological pest control cash fund - transfer of moneys to the plant health, pest control, and environmental protection cash fund. (1) All revenues collected in pursuit of the department's efforts to conduct its program of biological pest control shall be transmitted to the state treasurer, who shall credit the same to the ~~biological pest control cash fund, which fund is hereby created in the state treasury. All moneys credited to the cash fund and all interest earned on the investment of moneys in the cash fund shall be a part of the cash fund and shall not be transferred or credited to the general fund or to any other fund except as directed by the general assembly acting by bill. The cash fund is created to supplement any general fund appropriation. In addition to any appropriation from the general fund, the general assembly shall make annual appropriations from the cash fund to the department to carry out the biological control of agricultural and environmental~~ **PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND** CREATED IN SECTION 35-1-106.3. WITHIN SIXTY DAYS AFTER JULY 1, 2009, THE UNEXPENDED AND UNENCUMBERED BALANCE OF THE BIOLOGICAL PEST CONTROL CASH FUND, AS THAT FUND EXISTED PRIOR TO JULY 1, 2009, SHALL BE TRANSFERRED TO THE PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND.

(2) ~~The commission may establish a fee schedule to cover the direct and indirect costs of the collection and distribution of beneficial insects.~~

SECTION 3. 35-4-111 (2), Colorado Revised Statutes, is amended to read:

35-4-111. Inspections - certificates - remedial measures. (2) The commissioner may conduct inspections and issue phytosanitary and export certificates on plants for individual shipment to other states or foreign countries if those plants comply with the requirements or regulations of such state or foreign country. The commissioner may collect inspection and certification fees, in an

amount established by the agricultural commission, to cover the direct and indirect costs of providing such services. All fees collected pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the ~~phytosanitary inspection fund, which is hereby created, for use in administering the program~~ PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND CREATED IN SECTION 35-1-106.3. WITHIN SIXTY DAYS AFTER JULY 1, 2009, THE UNEXPENDED AND UNENCUMBERED BALANCE OF THE PHYTOSANITARY INSPECTION FUND, AS THAT FUND EXISTED PRIOR TO JULY 1, 2009, SHALL BE TRANSFERRED TO THE PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND.

SECTION 4. 35-9-118 (3) (a), Colorado Revised Statutes, is amended to read:

35-9-118. Powers and duties of the commissioner. (3) (a) The commissioner shall promulgate rules, pursuant to article 4 of title 24, C.R.S., to determine the annual registration fee for each pesticide registered. For the purpose of funding the DEPARTMENT OF AGRICULTURE'S groundwater protection fund created in section ~~25-8-205.5 (8), C.R.S.~~ EFFORTS, any such fee shall include an increment as approved by the agricultural commission, which increment, ALONG WITH THE REMAINDER OF THE FEE, shall be collected by the commissioner and transmitted to the state treasurer, who shall credit the same to the ~~groundwater protection fund;~~ except that the commissioner by rule or as otherwise provided by law may reduce the amount of the increment if necessary pursuant to section 24-75-402 (3), C.R.S.; to reduce the uncommitted reserves of the fund to which all or any portion of the increment is credited. ~~After the uncommitted reserves of the fund are sufficiently reduced, the commissioner by rule or as otherwise provided by law may increase the amount of the increment as provided in section 24-75-402 (4), C.R.S.~~ The remainder of the fee shall be credited to the pesticide fund as specified in this article PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND CREATED IN SECTION 35-1-106.3.

SECTION 5. 35-9-126, Colorado Revised Statutes, is amended to read:

35-9-126. Pesticide fund - transfer of moneys to the plant health, pest control, and environmental protection cash fund - fees. (1) All fees and civil fines collected pursuant to this article shall be transmitted to the state treasurer, who shall credit the same to the ~~pesticide fund, which fund is hereby created. The general assembly may make annual appropriations from such fund to the department of agriculture to carry out the purposes of this article and the "Pesticide Applicators' Act", article 10 of this title~~ PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND CREATED IN SECTION 35-1-106.3. WITHIN SIXTY DAYS AFTER JULY 1, 2009, THE UNEXPENDED AND UNENCUMBERED BALANCE OF THE PESTICIDE FUND, AS THAT FUND EXISTED PRIOR TO JULY 1, 2009, SHALL BE TRANSFERRED TO THE PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND.

(2) ~~All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund shall not be transferred or credited to the general fund or to any other fund except as directed by the general assembly acting by bill.~~

SECTION 6. 35-10-118 (8.5) (b), Colorado Revised Statutes, is amended to

read:

35-10-118. Powers and duties of the commissioner. (8.5) (b) The commissioner may accept gifts, grants, and donations of any kind from any private or public source for the purposes of this subsection (8.5). The commissioner shall transmit all such gifts, grants, or donations to the state treasurer, who shall credit the same to the ~~pesticide fund created in section 35-10-126~~ PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND CREATED IN SECTION 35-1-106.3.

SECTION 7. 35-10-126, Colorado Revised Statutes, is amended to read:

35-10-126. Transfer of moneys to the plant health, pest control, and environmental protection cash fund - fees. All fees and civil fines collected pursuant to this article shall be transmitted to the state treasurer, who shall credit the same to the ~~pesticide fund created in section 35-9-126~~. Within thirty days after July 1, 2006, the unexpended and unencumbered balance of the commercial pesticide applicator fund, as said fund existed prior to July 1, 2006, shall be transferred to the ~~pesticide fund created in section 35-9-126~~ PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND CREATED IN SECTION 35-1-106.3.

SECTION 8. 35-11-114, Colorado Revised Statutes, is amended to read:

35-11-114. Chemigation program management fund - transfer of moneys to the plant health, pest control, and environmental protection cash fund - fees.

(1) All fees collected pursuant to this article shall be transmitted to the state treasurer, who shall credit the same to the ~~chemigation program management fund, which fund is hereby created~~. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of the department for the administration of this article PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND CREATED IN SECTION 35-1-106.3. WITHIN SIXTY DAYS AFTER JULY 1, 2009, THE UNEXPENDED AND UNENCUMBERED BALANCE OF THE CHEMIGATION PROGRAM MANAGEMENT FUND, AS THAT FUND EXISTED PRIOR TO JULY 1, 2009, SHALL BE TRANSFERRED TO THE PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND.

(2) All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund shall not be transferred or credited to the general fund or to any other fund except as directed by the general assembly acting by bill.

SECTION 9. 35-11-115 (2), Colorado Revised Statutes, is amended to read:

35-11-115. Penalties. (2) Any person who violates any provision of subsection (1) of this section shall also be subject to a civil penalty assessed by the court of not less than one hundred dollars nor more than one thousand dollars for each such violation. All civil penalties collected under this subsection (2) shall be transmitted to the state treasurer, who shall credit the same to the ~~chemigation program management fund~~ PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND CREATED IN SECTION 35-1-106.3.

SECTION 10. 35-11.5-113, Colorado Revised Statutes, is amended to read:

35-11.5-113. Organic certification fund - transfer of moneys to the plant health, pest control, and environmental protection cash fund - fees. (1) All fees and penalties collected pursuant to this article shall be transmitted to the state treasurer, who shall credit the same to the ~~organic certification fund, which fund is hereby created. The moneys in the fund shall be subject to annual appropriation by the general assembly to the department for the direct and indirect costs of the administration of this article~~ PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND CREATED IN SECTION 35-1-106.3. WITHIN SIXTY DAYS AFTER JULY 1, 2009, THE UNEXPENDED AND UNENCUMBERED BALANCE OF THE ORGANIC CERTIFICATION FUND, AS THAT FUND EXISTED PRIOR TO JULY 1, 2009, SHALL BE TRANSFERRED TO THE PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND.

(2) All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. ~~The moneys in the fund shall not be transferred or credited to the general fund or to any other fund except as directed by the general assembly acting by bill. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.~~

SECTION 11. 35-25-116, Colorado Revised Statutes, is amended to read:

35-25-116. Bee inspection fund - transfer of moneys to the plant health, pest control, and environmental protection cash fund. All fees collected pursuant to this article shall be transmitted to the state treasurer, who shall credit the same to the ~~bee inspection fund, which is hereby created. All moneys credited to the beekeeper licensing fund prior to April 3, 1990, shall be remitted to the bee inspection fund to be used to offset the direct and indirect costs of the department of agriculture in administering the provisions of this article. Moneys in the bee inspection fund shall not be deposited in or transferred to the general fund of this state or any other fund. Moneys in such fund shall not revert to the general fund at the end of any fiscal year. The moneys credited to the bee inspection fund shall be appropriated by the general assembly to the department of agriculture in the general appropriation act for the sole purpose of administering this article~~ PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND CREATED IN SECTION 35-1-106.3. WITHIN SIXTY DAYS AFTER JULY 1, 2009, THE UNEXPENDED AND UNENCUMBERED BALANCE OF THE BEE INSPECTION FUND, AS THAT FUND EXISTED PRIOR TO JULY 1, 2009, SHALL BE TRANSFERRED TO THE PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND.

SECTION 12. 35-26-106 (4), Colorado Revised Statutes, is amended to read:

35-26-106. Colorado nursery fund - transfer of moneys to the plant health, pest control, and environmental protection cash fund - fees. (4) All fees and charges collected pursuant to this article shall be transmitted to the ~~Colorado nursery fund, which fund is hereby created. The general assembly shall make annual appropriations from such fund to the department for the direct and indirect costs of carrying out the purposes of this article. In addition, any moneys contained in said fund at the end of a fiscal year shall not revert to the general fund, but shall, together~~

~~with all reimbursements or accretions thereto from whatever source derived, remain available for appropriation as provided in this section~~ PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND CREATED IN SECTION 35-1-106.3. WITHIN SIXTY DAYS AFTER JULY 1, 2009, THE UNEXPENDED AND UNENCUMBERED BALANCE OF THE COLORADO NURSERY FUND, AS THAT FUND EXISTED PRIOR TO JULY 1, 2009, SHALL BE TRANSFERRED TO THE PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND.

SECTION 13. 35-27-124, Colorado Revised Statutes, is amended to read:

35-27-124. Seed cash fund - transfer of moneys to the plant health, pest control, and environmental protection cash fund - fees. All fees and civil fines collected pursuant to this article shall be transmitted to the state treasurer, who shall credit the same to the ~~seed cash fund, which fund is hereby created. The seed cash fund is created to~~ PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND CREATED IN SECTION 35-1-106.3. THE FEES AND FINES IMPOSED BY THIS ARTICLE SHALL supplement any general fund appropriation APPROPRIATED FOR THE PURPOSES OF THIS ARTICLE. ~~All moneys credited to the fund and all interest earned on the investment of moneys in the fund shall be a part of the fund and shall not be transferred or credited to the general fund or to any other fund except as directed by the general assembly acting by bill. In addition to any appropriation from the general fund, the general assembly shall make annual appropriations from the seed cash fund to the department to carry out the purposes of this article~~ WITHIN SIXTY DAYS AFTER JULY 1, 2009, THE UNEXPENDED AND UNENCUMBERED BALANCE OF THE SEED CASH FUND, AS THAT FUND EXISTED PRIOR TO JULY 1, 2009, SHALL BE TRANSFERRED TO THE PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND.

SECTION 14. 35-27.5-108 (2), Colorado Revised Statutes, is amended to read:

35-27.5-108. Colorado weed free crop certification fund - transfer of moneys to the plant health, pest control, and environmental protection cash fund - fees. (2) All fees collected pursuant to this article shall be transmitted to the state treasurer, who shall credit such fees to the ~~Colorado weed free crop certification fund, which fund is hereby created in the state treasury. The general assembly shall make annual appropriations from such fund to the department for the direct and indirect costs of carrying out the provisions of this article. All moneys in the fund at the end of any fiscal year shall not revert to the general fund but shall remain in the fund and shall remain available for appropriation to the department to carry out the provisions of this article~~ PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND CREATED IN SECTION 35-1-106.3. WITHIN SIXTY DAYS AFTER JULY 1, 2009, THE UNEXPENDED AND UNENCUMBERED BALANCE OF THE COLORADO WEED FREE CROP CERTIFICATION FUND, AS THAT FUND EXISTED PRIOR TO JULY 1, 2009, SHALL BE TRANSFERRED TO THE PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND.

SECTION 15. 25-8-205.5 (8), Colorado Revised Statutes, is amended to read:

25-8-205.5. Pollution from agricultural chemicals - rules. (8) Groundwater protection fund - transfer of moneys to the plant health, pest control, and environmental protection cash fund - fees. The fees as specified and collected

pursuant to sections 35-9-118 (3) (a) and 35-12-106 (1), C.R.S., and any civil fines imposed pursuant to ~~subsection (3) (h) (VI)~~ SUBPARAGRAPH (VI) OF PARAGRAPH (h) OF SUBSECTION (3) of this section shall be transmitted to the state treasurer, who shall credit the same to the ~~groundwater protection fund, which fund is hereby created.~~ All moneys credited to the fund and all interest earned on the investment of moneys in the fund shall be a part of this fund and shall not be transferred or credited to the general fund or to any other fund, except as directed by the general assembly acting by bill. ~~The general assembly shall make annual appropriations from such fund to the department of agriculture to carry out the purposes of this section~~ PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND CREATED IN SECTION 35-1-106.3, C.R.S. WITHIN SIXTY DAYS AFTER JULY 1, 2009, THE UNEXPENDED AND UNENCUMBERED BALANCE OF THE GROUNDWATER PROTECTION FUND, AS THAT FUND EXISTED PRIOR TO JULY 1, 2009, SHALL BE TRANSFERRED TO THE PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND.

SECTION 16. 35-12-106 (1), Colorado Revised Statutes, is amended to read:

35-12-106. Distribution fees. (1) All registrants, except those who package only in containers of ten pounds or less, shall pay the commissioner a distribution fee as established by the commission for all commercial fertilizers, soil conditioners, or plant amendments distributed in this state. For the purpose of funding the DEPARTMENT'S groundwater protection ~~fund created in section 25-8-205.5 (8);~~ C.R.S. EFFORTS, an additional fee per ton of commercial fertilizer shall be paid to the commissioner as established by the commission. This increment per ton of commercial fertilizer shall be collected by the commissioner and transmitted to the state treasurer, who shall credit the same to the ~~groundwater protection fund~~ PLANT HEALTH, PEST CONTROL, AND ENVIRONMENTAL PROTECTION CASH FUND CREATED IN SECTION 35-1-106.3.

SECTION 17. The introductory portion to 35-23-114 (3) (a), Colorado Revised Statutes, is amended, and the said 35-23-114 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

35-23-114. Inspection fees - agricultural products inspection cash fund. (3) (a) Fees for inspections mandated by section 35-23-111 and FEES FOR ALL OTHER INSPECTION SERVICES PROVIDED PURSUANT TO THIS ARTICLE AND collected under the provisions of this section shall be deposited in the state treasury and credited to the ~~mandatory fruit and vegetable inspection fund~~ AGRICULTURAL PRODUCTS INSPECTION CASH FUND, which fund is hereby created. All interest derived from the deposit or investment of moneys credited to the ~~mandatory fruit and vegetable inspection fund~~ AGRICULTURAL PRODUCTS INSPECTION CASH FUND shall also be credited to the fund. All moneys credited to the ~~mandatory fruit and vegetable inspection fund~~ AGRICULTURAL PRODUCTS INSPECTION CASH FUND shall be used as provided in this section and shall not be deposited in or transferred to the general fund of this state or any other fund. ~~All moneys in the mandatory fruit and vegetable inspection fund are to be appropriated by the general assembly to the department of agriculture to be used for the inspection services mandated by section 35-23-111. Fees for all other inspection services provided pursuant to this article and collected under the provisions of this section shall be deposited in the agricultural products inspection cash fund, which fund is hereby created.~~ All

moneys in said fund are to be appropriated by the general assembly to the department of agriculture to be used for inspection services provided pursuant to this article. ~~except those inspections mandated by section 35-23-111.~~ Moneys in the ~~mandatory fruit and vegetable inspection fund~~ AGRICULTURAL PRODUCTS INSPECTION CASH FUND may be used:

(4) WITHIN SIXTY DAYS AFTER JULY 1, 2009, THE UNEXPENDED AND UNENCUMBERED BALANCE OF THE MANDATORY FRUIT AND VEGETABLE INSPECTION FUND, AS THAT FUND EXISTED PRIOR TO JULY 1, 2009, SHALL BE TRANSFERRED TO THE AGRICULTURAL PRODUCTS INSPECTION CASH FUND.

SECTION 18. Effective date. This act shall take effect July 1, 2009.

SECTION 19. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 2, 2009