



## Fiscal Note

### Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

## HB 26-1121: PUBLIC ACCESSIBILITY OF EMISSIONS RECORDS

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**Prime Sponsors:**

Rep. Marshall; Garcia

Sen. Cutter; Kipp

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**Fiscal note status:** This fiscal note reflects the introduced bill.

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### Summary Information

**Overview.** The bill requires the owners and operators of buildings and facilities that emit air pollutants to publish emissions records on their websites.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- State Revenue
- State Expenditures

**Appropriations.** No appropriation is required.

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**Table 1**  
**State Fiscal Impacts**

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
State Revenue	\$0	up to \$1 million	up to \$2 million
State Expenditures	\$0	\$537,474	\$814,661
Transferred Funds	\$0	\$0	\$0
Change in TABOR Refunds	\$0	\$0	\$0
Change in State FTE	0.0 FTE	3.8 FTE	6.2 FTE

Fund sources for these impacts are shown in the tables below.

**Table 1A  
State Revenue**

<b>Fund Source</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
General Fund	\$0	\$0	\$0
Cash Funds	\$0	up to \$1 million	up to \$2 million
<b>Total Revenue</b>	<b>\$0</b>	<b>up to \$1 million</b>	<b>up to \$2 million</b>

**Table 1B  
State Expenditures**

<b>Fund Source</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
General Fund	\$0	\$0	\$0
Cash Funds	\$0	\$448,690	\$670,515
Federal Funds	\$0	\$0	\$0
Centrally Appropriated	\$0	\$88,784	\$144,146
<b>Total Expenditures</b>	<b>\$0</b>	<b>\$537,474</b>	<b>\$814,661</b>
<b>Total FTE</b>	<b>0.0 FTE</b>	<b>3.8 FTE</b>	<b>6.2 FTE</b>

## Summary of Legislation

Current law requires owners and operators of buildings and facilities that emit air pollutants (stationary sources) to submit emissions records to the state and federal governments. Beginning January 1, 2028, the bill requires owners and operators to also publish emissions records generated after December 1, 2027, on their public-facing websites. Published records must be updated at the same cadence in which they are submitted to the government, with some exceptions. The Department of Public Health and Environment (CDPHE) is authorized to assess and collect civil penalties from owners and operators that violate these requirements, which are credited to the Community Impact Cash Fund.

The bill further stipulates that all penalties received in the fund must be distributed as follows in FY 2026-27:

- the first \$500,000 to CDPHE to implement the emissions records requirements in this bill;
- the next \$1.0 million to the Motor Vehicle Emissions Assistance Fund in the CDPHE; and
- 100 percent of the remaining penalties to stay within the Community Impact Cash Fund.

For FY 2027-28 and FY 2028-29, funds are credited as follows:

- the first \$900,000 to CDPHE to implement the emissions records requirements in this bill;
- the next \$1.0 million to the Motor Vehicle Emissions Assistance Fund in the CDPHE; and
- 100 percent of the remaining penalties to stay within the Community Impact Cash Fund.

For FY 2029-30 and future years, funds are credited, as under current law, as follows:

- the first \$1.0 million to the Motor Vehicle Emissions Assistance Fund in the CDPHE; and
- 100 percent of the remaining penalties to stay within the Community Impact Cash Fund.

## Assumptions

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### Constructive Notice

Under current law, the statute of limitations for the CDPHE to pursue enforcement actions for violations of air quality regulations begins when the department knew or should have known of the violation. For purposes of this fiscal note, it is assumed that the publication of emissions records on a source's website does not in itself constitute constructive notice to the department of a potential violation. Therefore, the CDPHE is not required to proactively inspect all documents made publicly available under the bill.

If, however, publication is interpreted to constitute constructive notice, expenditures in the CDPHE could increase significantly, as the department may need to review all posted records to preserve enforcement authority, investigate potential noncompliance, and pursue additional enforcement actions.

### Emissions Records

The fiscal note assumes that the publication requirement is limited to records directly tied to compliance with specified state and federal air programs, rather than all emissions-related records maintained under any state or federal law.

Under current law and rule, **major sources** are already required to submit periodic compliance reports, deviation reports, performance test results, and annual compliance certifications related to these programs to the Air Pollution Control Division. These submitted reports are generally made publicly accessible through the department's document management system following review. **Synthetic minor sources** are subject to periodic reporting requirements under certain regulations and permit conditions, though underlying monitoring and operational records are typically maintained on-site and provided to the division upon request or inspection rather than routinely submitted. **Minor sources** generally rely on Air Pollutant Emission Notices (APENs) and maintain supporting compliance documentation, but are not broadly required to submit periodic emissions monitoring reports unless specified by permit or rule.

As a result, the additional records made publicly available by the bill are expected to consist primarily of underlying compliance documentation that are currently maintained but not routinely submitted to or posted by the division.

## Complaints and Enforcement

The CDPHE currently conducts roughly 1,750 inspections per year, and receives an average of 660 annual complaints, across all source types related to air quality violations. Of this amount, the department initiated 195 enforcement actions and resolved 189 in FY 2024-25. Based on the above assumptions, the fiscal note estimates that the number of complaints will increase by 50 percent under the bill, resulting in 330 additional complaints per year, and 42 enforcement actions resulting in penalties. Based on historical data, 5 percent of these actions will require support from the Attorney General's office.

## State Revenue

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The bill is estimated to increase state revenue from civil penalties by an estimated \$1 million in FY 2027-28 and \$2 million in future years. This penalty revenue is credited to the Community Impact Cash Fund, and is not subject to TABOR.

Under current law, a person who violates any requirement of the Air Quality Control Program is subject to a civil penalty of up to \$47,357 per violation, adjusted periodically for inflation. As outlined in the Assumptions section, assuming that 42 of the additional complaints filed will result in a penalty, the Air Pollution Control Division may collect up to \$2 million in civil penalties as a result of the bill. In FY 2027-28, revenue is prorated to a half-year impact assuming that roughly half the cases will be resolved. Because penalties are assessed on a case-by-case basis and may differ significantly depending on the duration, severity, and circumstances of noncompliance, actual revenue may vary from these projections.

## State Expenditures

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The bill increases state expenditures in the CDPHE by \$537,000 in FY 2027-28 and \$815,000 in future years. These costs, paid from the Community Impact Cash Fund, are summarized in Table 2 and discussed below.

**Table 2**  
**State Expenditures**  
**Department of Public Health and Environment**

<b>Cost Component</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
Personal Services	\$0	\$377,722	\$614,371
Operating Expenses	\$0	\$4,736	\$7,680
Capital Outlay Costs	\$0	\$42,000	\$0
Legal Services	\$0	\$24,232	\$48,465
Centrally Appropriate Costs	\$0	\$88,784	\$144,146
FTE – Personal Services	0.0 FTE	3.7 FTE	6.0 FTE
FTE – Legal Services	0.0 FTE	0.1 FTE	0.2 FTE
<b>Total Costs</b>	<b>\$0</b>	<b>\$537,474</b>	<b>\$814,661</b>
<b>Total FTE</b>	<b>0.0 FTE</b>	<b>3.8 FTE</b>	<b>6.2 FTE</b>

### Department of Public Health and Environment

CDPHE will have staff and legal services costs beginning in FY 2027-28 to implement the bill.

#### Staff

Beginning in FY 2027-28, the CDPHE requires 6.0 FTE Environmental Specialist to conduct rulemaking, perform ongoing outreach and compliance assistance, investigate complaints and initiate enforcement action. As described in the Assumptions section above, the fiscal note estimates that 330 additional complaints will be filed as a result of additional emissions records becoming publicly available. Staff costs are prorated in the second year to a January 1, 2028, start date for compliance and enforcement-related FTE.

#### Legal Services

Beginning in FY 2027-28, the CDPHE requires legal services to address a rise in complaints and enforcement actions. The fiscal note assumes two substantial enforcement actions per year, prorated for a half-year impact in FY 2027-28. Legal services are provided by the Department of Law at a rate of \$138.47 per hour.

#### 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 may include employee insurance, supplemental employee retirement payments, indirect cost assessments, and other costs, are shown in Table 2 above.

## Technical Note

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The bill directs the Air Quality Control Division to use \$500,000 of penalty revenue collected in the Community Impact Cash Fund to cover program costs in FY 2026-27; however, the program will not begin to incur costs until FY 2027-28. Further, the fund does not allocate any penalty revenue to the program after FY 2028-29, despite estimated ongoing costs. Without an ongoing allocation of money from the Community Impact Cash Fund, the CDPHE would be required to either adjust fees to pay costs from the Stationary Source Cash Fund or request General Fund through the annual budget process to cover the assumed increase in enforcement costs.

The bill requires owners and operators to make emissions records publicly available on their website. The bill does not state whether this constitutes constructive notice, which would require the CDPHE to review all posted records.

## Effective Date

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

## Departmental Difference

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The CDPHE and the Department of Law estimate that the bill will increase state expenditures by \$9.6 million and 58.7 FTE in FY 2027-28, and \$20.4 million and 114.0 FTE in FY 2028-29. This estimate assumes that the department is required to proactively monitor and inspect companies' public emissions records, and address new complaints for each of the state's 13,000 stationary sources through inspections. It also assumes that any records related to emissions, including those submitted to other state agencies, Energy and Carbon Management Commission records, and other internal records maintained by a permit holder are subject to the bill's publication requirements.

As detailed in the Assumptions section above, the fiscal note assumes that record publication does not constitute constructive notice, and that the CDPHE not required to inspect source websites. Further, it is assumed that the records subject to the bill are directly related to state and federal air program compliance, and not all documents related to emissions.

## State and Local Government Contacts

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Law

Public Health and Environment

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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](#).