



**Colorado
Legislative
Council
Staff**

HB16-1108

**FINAL
FISCAL NOTE**

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0734

Date: July 13, 2016

Prime Sponsor(s): Rep. Conti

Bill Status: Postponed Indefinitely

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BILL TOPIC: RESIDENTIAL REAL ESTATE DISCLOSE LARGE PLANT GROW

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue		\$73,000
General Fund		73,000
State Expenditures	\$51,391	\$71,724
General Fund	43,963	0
Cash Funds	0	48,666
Centrally Appropriated Costs	7,428	23,058
TABOR Impact		\$73,000
FTE Position Change	0.5 FTE	0.5 FTE
Appropriation Required: \$43,963 - Department of Public Health and Environment (FY 2016-17).		
Future Year Impacts: Ongoing revenue and expenditure increases.		

NOTE: This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

This bill requires a seller of residential property to disclose if seven or more plants capable of attaining a height of three feet or a diameter of two feet were grown on the property using pesticides or fertilizers. The seller can be exempt from the disclosure requirement if the property is inspected and certified safe by a qualified inspector.

The State Board of Health (board), in consultation with the Commissioner of Agriculture, or his or her designee, is required to adopt rules related to residential structures where indoor horticultural operations have or may have been conducted concerning:

- procedures for testing contamination, evaluating contamination, and establishing acceptable cleanup standards; and
- procedures for a training and certification program for inspectors, contractors and consultants involved in the assessment, decontamination, and sampling of indoor horticulture operations.

The board is required to set fees to cover the costs for administering the certification program for the training, oversight, and abatement of contaminated properties.

The Real Estate Commission under the Division of Real Estate in the Department of Regulatory Agencies (DORA) must adopt a rule that requires the disclosure by January 1, 2017.

State Revenue

The CDPHE will begin charging certification fees in FY 2017-18, which will **increase state cash fund revenue by \$73,000**. Future revenue will depend on how the program is operated after the initial startup. If the program expenditures are reduced, revenue will also be reduced.

Fee impact on individuals or business. State law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Table 1 below identifies the fee impact of this bill. Actual fees will be set by the board and may differ from the table. The number of individuals and businesses seeking certification are based on the number of comparable providers for methamphetamine-affected properties.

Table 1. Fee Impact on Individuals, or Business			
Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
Decontamination Supervisor Certification Fee	\$500	50	\$25,000
Decontamination Worker Certification Fee	400	50	20,000
Consultant Certification Fee	600	20	12,000
Decontamination Firm Certification Fee	500	20	10,000
Training Provider Certification Fee	1,000	3	3,000
Instructor Certification Fee	500	6	3,000
TOTAL			\$73,000

State Expenditures

Assumptions. The fiscal note assumes that bill will be amended to create the Indoor Horticultural Inspection Cash Fund.

This bill will increase **General Fund expenditures by \$51,391 and 0.5 FTE in FY 2016-17 and cash fund expenditures by \$71,985 and 0.5 FTE in FY 2017-18 and future years from the Indoor Horticultural Inspection Cash Fund**. Table 2 shows the expenditure detail which is explained below.

Table 2. Expenditures Under HB16-1108		
Cost Components	FY 2016-17	FY 2017-18
Personal Services	\$39,688	\$39,688
FTE	0.5 FTE	0.5 FTE
Operating Expenses and Capital Outlay Costs	475	5,178
Legal Services	3,800	3,800
Centrally Appropriated Costs*	7,428	23,058
TOTAL	\$51,391	\$71,724

* Centrally appropriated costs are not included in the bill's appropriation.

State Board of Health — CDPHE. The CDPHE will conduct stakeholder meetings as part of the rulemaking process for the board. An additional 0.5 FTE will be responsible for implementing the certification program as well as continued oversight and monitoring of persons involved in the assessment, decontamination, and sampling of indoor horticultural operations. Capital outlay expenditures will be made in FY 2017-18, when the certification process begins.

The Department of Law will provide 40 hours of legal services at a rate of \$95.01 per hour in FY 2016-17 and FY 2017-18 for rulemaking and general counsel.

Real Estate Commission — DORA. The commission will add the new disclosure requirement to existing disclosure forms which can be accomplished without a rulemaking process. Because the bill requires that the disclosure be adopted in rule, the commission can address this during its regular rulemaking process within existing appropriations.

Judicial Department. Because the bill does not offer remedies for failure to make the disclosure when a residential property is contaminated, the fiscal note assumes buyers will take their complaints to court. This increase in civil cases is not expected to be significant and can be addressed within existing 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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 3.

Table 3. Centrally Appropriated Costs Under HB16-1108		
Cost Components	FY 2016-17	FY 2017-18
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$4,032	\$4,032
Supplemental Employee Retirement Payments	3,396	3,556
Indirect Costs		15,470
TOTAL	\$7,428	\$23,058

Technical Notes

The bill does not identify a cash fund and does not include an enforcement mechanism for CDPHE to take action for violations by decontamination providers.

Effective Date

The bill was postponed indefinitely by the House Business Affairs and Labor Committee on February 4, 2016.

State Appropriations

For FY 2016-17, the Department of Public Health and Environment requires a General Fund appropriation of \$43,963 and an allocation of 0.5 FTE. Of this, the Department of Law requires \$3,800 in reappropriated funds.

State and Local Government Contacts

Agriculture
Law
Revenue

Governor's Marijuana Office
Public Health & Environment

Judicial
Regulatory Agencies