

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 18-1236.01 Thomas Morris x4218

HOUSE BILL 18-1400

HOUSE SPONSORSHIP

Becker K. and McKean,

SENATE SPONSORSHIP

Scott and Jahn,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING AN INCREASE IN FEES PAID BY STATIONARY SOURCES OF**
102 **AIR POLLUTANTS, AND, IN CONNECTION THEREWITH,**
103 **PRIORITIZING THE USE OF THE REVENUES GENERATED BY THE**
104 **FEE INCREASES TO REDUCE PERMIT PROCESSING TIMES, AND, IN**
105 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law sets the fees paid by stationary sources of air pollutants by statute and allows the air quality control commission to set

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

the fees below the cap by rule as needed to comply with TABOR. The bill increases the statutory caps as follows:

<u>Type of Fee</u>	<u>Current Cap</u>	<u>New Cap</u>
Air pollutant emission notices	\$152.90	\$191.13
Per-ton fee for regulated pollutants	\$ 22.90	\$ 28.63
Per-ton fee for hazardous pollutants	\$152.90	\$191.13
Per-hour permit processing fee	\$ 76.45	\$ 95.56

The maximum statutory fees automatically increase by the rate of inflation on each January 1 from 2019 to 2028, but the actual fees collected will be set at or below the statutory cap by the commission by rule. The division of administration in the department of public health and environment shall prioritize its use of the revenues generated by the fee increases to reduce permit processing times.

The division will:

- ! Engage affected industries to identify and assess measures to improve billing practices, increase accounting transparency, and assess potential efficiency improvements with respect to division activities financed by the fees; and
- ! Report to the general assembly as part of the SMART Act presentations through 2022 to provide status updates on the stakeholder process.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby:

4 (a) Finds that the 2018-19 long bill significantly reduced the
5 spending authority in the air pollution control stationary sources program
6 due to a reduction in projected revenue and fund balance;

7 (b) Determines that:

8 (I) The air pollution stationary sources program will likely require
9 a supplemental appropriation in fiscal year 2018-19 in order to comply
10 with the intent of this act; and

11 (II) It will be necessary for the department of public health and
12 environment to work with the joint budget committee following the
13 enactment of fee increases up to the caps established in this act, by rule

1 of the commission, to request additional spending authority to comply
2 with the intent of this act; and

3 (c) Declares that this act is necessary to ensure the continued
4 operation of the stationary sources program and to ensure timeliness of
5 permitting and responsiveness to stakeholders and the public.

6 **SECTION 2.** In Colorado Revised Statutes, 25-7-114.1, **amend**
7 (6)(a) as follows:

8 **25-7-114.1. Air pollutant emission notices.** (6) (a) The
9 MAXIMUM fee for filing an air pollutant emission notice or amendment
10 thereto under this section ~~shall be~~ IS one hundred ~~fifty-two~~ NINETY-ONE
11 dollars and ~~ninety~~ THIRTEEN cents; EXCEPT THAT, ON EACH JANUARY 1
12 FROM 2019 TO 2028, THE MAXIMUM FEE IS AUTOMATICALLY ADJUSTED
13 BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES
14 DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE
15 INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN
16 CONSUMERS, OR ITS SUCCESSOR INDEX. THE COMMISSION SHALL SET THE
17 ACTUAL FEE BY RULE. BEGINNING ON JULY 1, 2018, THE COMMISSION, BY
18 RULE, MAY PERIODICALLY ADJUST THE FEE UP TO THE MAXIMUM FEE. The
19 ~~moneys~~ MONEY collected pursuant to this section shall be transmitted to
20 the state treasurer, who shall credit ~~the same~~ IT to the stationary sources
21 control fund created in section 25-7-114.7 (2)(b)(I).

22 **SECTION 3.** In Colorado Revised Statutes, 25-7-114.7, **amend**
23 (2)(a)(I)(A), (2)(a)(I)(B), and (2)(a)(III); and **add** (2)(g) as follows:

24 **25-7-114.7. Emission fees - fund - rules - repeal.** (2) (a) (I) The
25 commission shall designate by rule those classes of sources of air
26 pollution that are exempt from the requirement to pay an annual emission
27 fee. Every owner or operator of an air pollution source not otherwise

1 exempt in accordance with such commission rules shall pay an annual fee
2 as follows:

3 (A) For fiscal years ~~2008-09~~ 2018-19 and thereafter, ~~twenty-two~~
4 THE MAXIMUM FEE IS TWENTY-EIGHT dollars and ~~ninety~~ SIXTY-THREE
5 cents per ton of regulated pollutant reported in the most recent air
6 pollution emission notice on file with the division; EXCEPT THAT, ON EACH
7 JANUARY 1 FROM 2019 TO 2028, THE MAXIMUM FEE IS AUTOMATICALLY
8 ADJUSTED BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE UNITED
9 STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS,
10 CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL
11 ITEMS AND ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX. THE
12 COMMISSION SHALL SET THE ACTUAL FEE BY RULE. BEGINNING ON JULY 1,
13 2018, THE COMMISSION, BY RULE, MAY PERIODICALLY ADJUST THE FEE UP
14 TO THE MAXIMUM FEE.

15 (B) For fiscal years ~~2008-09~~ 2018-19 and thereafter, in addition
16 to the annual fee set forth in ~~sub-subparagraph (A) of this subparagraph~~
17 ~~(H)~~ SUBSECTION (2)(a)(I)(A) OF THIS SECTION, for hazardous air pollutants,
18 including ozone-depleting compounds, ~~an~~ A MAXIMUM annual fee of one
19 hundred ~~fifty-two~~ NINETY-ONE dollars and ~~ninety~~ THIRTEEN cents per ton;
20 EXCEPT THAT, ON EACH JANUARY 1 FROM 2019 TO 2028, THE MAXIMUM
21 FEE IS AUTOMATICALLY ADJUSTED BASED ON THE ANNUAL PERCENTAGE
22 CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF
23 LABOR STATISTICS, CONSUMER PRICE INDEX FOR
24 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN
25 CONSUMERS, OR ITS SUCCESSOR INDEX. THE COMMISSION SHALL SET THE
26 ACTUAL FEE BY RULE. BEGINNING ON JULY 1, 2018, THE COMMISSION, BY
27 RULE, MAY PERIODICALLY ADJUST THE FEE UP TO THE MAXIMUM FEE.

1 (III) Every owner or operator subject to the requirements of
2 ~~paying~~ TO PAY fees set forth in ~~subparagraph (I) of this paragraph (a)~~
3 SUBSECTION (2)(a)(I) OF THIS SECTION shall also pay a processing fee for
4 the costs of processing any application other than an air pollution
5 emission notice under this article 7. Every significant user of prescribed
6 fire, including federal facilities, submitting a planning document to the
7 commission pursuant to section 25-7-106 (8)(b) shall pay a fee for costs
8 of evaluating ~~such~~ THE documents. FOR FISCAL YEAR 2018-19, the
9 division shall assess a fee for work it performs, up to a maximum of thirty
10 hours at a MAXIMUM rate of ~~seventy-six~~ NINETY-FIVE dollars and
11 ~~forty-five~~ FIFTY-SIX cents per hour; EXCEPT THAT, ON EACH JANUARY 1
12 FROM 2019 TO 2028, THE MAXIMUM FEE IS AUTOMATICALLY ADJUSTED
13 BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES
14 DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE
15 INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN
16 CONSUMERS, OR ITS SUCCESSOR INDEX. THE COMMISSION SHALL SET THE
17 ACTUAL FEE BY RULE. BEGINNING ON JULY 1, 2018, THE COMMISSION, BY
18 RULE, MAY PERIODICALLY ADJUST THE FEE UP TO THE MAXIMUM FEE. If the
19 division requires more than thirty hours to process the application or
20 evaluate the prescribed fire-related planning documents, the fee paid by
21 the applicant ~~shall~~ MUST not exceed three thousand SEVEN HUNDRED FIFTY
22 dollars unless the division has informed the source that the respective
23 billings may exceed three thousand SEVEN HUNDRED FIFTY dollars and has
24 provided the source with an estimate of what the actual charges may be
25 prior to commencing the work.

26 (g) (I) THE DIVISION SHALL PRIORITIZE ITS USE OF THE
27 REVENUES GENERATED BY THE FEE INCREASES AUTHORIZED BY THE

1 GENERAL ASSEMBLY IN 2018 TO REDUCE PERMIT PROCESSING TIMES FOR
2 ALL CATEGORIES OF PERMITS THROUGH INCREASED EFFICIENCIES AND
3 INFORMATION SYSTEM IMPROVEMENTS THAT ARE IDENTIFIED THROUGH
4 THE STAKEHOLDER PROCESS IDENTIFIED IN SUBSECTION (2)(g)(II) OF THIS
5 SECTION.

6 (II) BEFORE SEPTEMBER 1, 2018, THE DIVISION SHALL CONVENE A
7 STAKEHOLDER GROUP CONSISTING OF AFFECTED INDUSTRIES TO:

8 (A) IDENTIFY AND ASSESS MEASURES TO IMPROVE BILLING
9 PRACTICES AND INCREASE ACCOUNTING TRANSPARENCY WITH RESPECT TO
10 APPLICATION PROCESSING FEES, INCLUDING PROVIDING MORE DETAIL ON
11 THE APPLICATION REVIEW PROCESS AND THE TIME SPENT ON THE PROCESS;
12 AND

13 (B) ASSESS POTENTIAL EFFICIENCY IMPROVEMENTS, INCLUDING
14 ASSOCIATED METRICS TO MEASURE THE DIVISION'S PERFORMANCE, WITH
15 RESPECT TO DIVISION ACTIVITIES FINANCED BY THE STATIONARY SOURCES
16 CONTROL FUND.

17 (III) BEGINNING IN 2019, THE DIVISION SHALL PRESENT DURING
18 THE LEGISLATIVE SESSION THE RESULTS OF THE STAKEHOLDER PROCESS
19 REQUIRED BY SUBSECTION (2)(g)(II) OF THIS SECTION, INCLUDING
20 IMPROVED BILLING PRACTICES, INCREASED ACCOUNTING TRANSPARENCY,
21 IMPLEMENTED EFFICIENCY IMPROVEMENTS, AND EFFICIENCY METRICS, TO
22 THE HOUSE HEALTH, INSURANCE, AND ENVIRONMENT COMMITTEE AND THE
23 SENATE HEALTH AND HUMAN SERVICES COMMITTEE, OR ANY SUCCESSOR
24 COMMITTEES.

25 (IV) SUBSECTIONS (2)(g)(II) AND (2)(g)(III) OF THIS SECTION AND
26 THIS SUBSECTION (2)(g)(IV) ARE REPEALED, EFFECTIVE SEPTEMBER 1,
27 2023.

1 **SECTION 4. Appropriation.** (1) For the 2018-19 state fiscal
 2 year, \$1,555,293 is appropriated to the department of public health and
 3 environment. This appropriation is from the stationary sources control
 4 fund created in section 25-7-114.7 (2)(b)(I), C.R.S. To implement this act,
 5 the department may use this appropriation as follows:

6	Administration and Support Division, Administration	
7	Health, Life, and Dental	\$108,898
8	Short-term Disability	\$1,803
9	S.B. 04-257 Amortization Equalization Disbursement	\$44,675
10	S.B. 06-235 Supplemental Amortization	
11	Equalization Disbursement	\$44,675
12	Air Pollution Control Division, Administration	
13	Program Costs	\$84,752
14	Indirect Cost Assessment	\$292,109
15	Air Pollution Control Division, Technical Services	
16	Personal Services	\$98,095
17	Operating Expenses	\$13,008
18	Local Contracts	\$29,918
19	Air Pollution Control Division, Stationary Sources	
20	Personal Services	\$722,186
21	Operating Expenses	\$26,478
22	Local Contracts	\$74,096
23	Preservation of the Ozone Layer	\$3,362
24	Division of Environmental Health and Sustainability	
25	Administration and Support	\$360
26	Sustainability Programs	\$8,745
27	Indirect Cost Assessment	\$2,592.

1 **SECTION 5. Applicability.** This act applies to conduct occurring
2 on or after the applicable effective date of this act.

3 **SECTION 6. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.